CWCI
Research Notes
October 2003

Attorney Involvement in California Workers' Compensation, 1993 – 2000

Summary

In April 2002, the Institute published a study documenting a sharp increase in attorney involvement in California's no-fault workers' compensation system following significant legislative reform of the system in 1993. This new study, based on paid data from more than 1.7 million California workers' compensation claims for injuries that occurred between 1993 and the end of 2000, builds on that research by taking a closer look at various characteristics of claims that involved attorneys during that 8-year span. The research measures the level of attorney involvement, average legal and benefit costs of those claims, the timing of attorney involvement and the method of resolution. Key findings include:

- Attorneys were involved in every seventh claim in the California workers' compensation system during the 1993 – 2000 period, one out of every nine claims if the sample is limited to closed and resolved claims. The level of attorney involvement varied significantly by claim type, ranging from fewer than three out of every 100 medical-only claims to nine out of 10 fatal injury claims.
- Overall, attorneys were involved in more than three out of four claims in which permanent disability was paid. Permanent disability claims for injuries involving multiple body parts, cumulative injury, back strains, and eye injuries have the highest attorney involvement rates.
- Estimated litigation costs on insured claims (attorney fees, med-legal, and expenses such as depositions, court reporting, and photocopying) for 2002 are $646 million or 8 percent of total benefit payments.
- Litigation costs ranged from $1,693 for medical-only claims to more than $10,000 for death claims. Major permanent disability claims involved the most disputes, and account for 59 percent of the legal costs in the system. Litigation costs on these claims averaged $8,352 between 1993 and 2000. All defense-related costs represented just over half that amount, while applicant attorney fees were the single most costly element, averaging $3,538, 41 percent of total litigation costs on major PD claims.
- For permanent disability, vocational rehabilitation and death claims involving attorneys (where benefits are highest), litigation costs consumed just over 11 cents for every $1 in benefits. However, attorney involvement added substantial costs to other types of claims as well. Among the temporary disability claims involving attorneys, litigation expenses consumed 32 cents for every $1 in benefits, and among the medical only claims involving attorneys, legal costs represented 76 cents for every $1 of benefits.
- Litigation costs are higher in Southern California than in the north, with the highest costs being in Los Angeles County, where these expenses run 20 percent above the state average. Litigation is least expensive in San Diego, where costs average about 25 percent below the statewide figure.
- Litigation expenses vary by industry. Overall, average costs range from $3,409 in the Aircraft Operations sector to $4,674 in Textile Manufacturing.
- Benefit payments on permanent disability claims involving attorneys averaged $40,815. One in four PD claims have no attorney involvement, and these are primarily minor PD cases. Benefits on the PD claims with no attorneys averaged $19,811.
- One third of the cases involving attorneys showed an applicant or defense attorney was present within the first 3 months, while almost half of these cases showed attorney involvement within 6 months.
- More than 75 percent of indemnity claims involving attorneys were settled through a compromise and release (C&R). The Los Angeles area had the highest proportion of C&Rs, while the percentage of C&Rs in the San Francisco Bay Area was significantly below the state average, primarily due to heavier use of stipulated awards.

Background

When workers' compensation laws were initially drafted more than 90 years ago, the goal was to eliminate the delays, the expense and the uncertainty that marked the common-law employers' liability system. The original architects of the program believed that by removing the issue of fault, and defining benefits in statute, they could do away with the principal causes of disputes and the need for litigation.

Today, the initial optimism and no-fault intent that served as the foundation of the workers' compensation system nearly a century ago have been eroded by the increasing complexity of the program. Thirty years ago, the Institute published a study examining the causes of litigation in California workers' compensation.[1] That study noted that some litigation is inherent in the system, as valid disputes arise in any statutory body of law, but it also revealed a central, dominant theme: uncertainty breeds litigation.

"Uncertainty about the injury, its treatment, his job and family directly affects the employee and determines his course of action. That uncertainty in turn is multiplied by the cumulative uncertainty of others – first-line foremen and supervisors, co-employees, employers, physicians, union officials, claims technicians; in short, everyone who comes in contact with the employee before he decides he should see an 'expert,' the attorney."

In the three decades since the Institute issued that report, state lawmakers have attempted to reform the California workers' compensation system on multiple occasions, often citing the need to make the program less cumbersome, less complex, and more predictable. Yet, despite that intent, both the level and the cost of attorney involvement have increased over the past 30 years.

Part of the problem is structural, as a number of changes to the system have made it far less predictable and more reliant on vague standards that lead to increased disputes and greater attorney involvement. For example, in 1993, state lawmakers gave the primary treating physician's opinion the rebuttable presumption of correctness over all issues related to impairment, but two years later the Workers' Compensation Appeals Board expanded that presumption to include all medical issues, including medical treatment.[2] The presumption was intended to implement a public policy of reducing medical-legal costs and expediting the resolution of medically related issues by limiting the number of medical evaluations. The result, however, was to virtually eliminate payers' ability to challenge or curtail unnecessary medical care, because to refute the proposed treatment, the claims administrator was required to specifically address and discredit the treater's evaluation. Thus, when a treating physician recommended ineffective or deleterious medical treatment and the claims administrator objected, the opinion of the treating physician was given a legal presumption of correctness.

The issue of medical control and the selection of a primary treating physician became paramount, and a key area of contention, often leading to earlier and more extensive attorney involvement. One compendium of "treating physician presumption" case law prepared by a Workers' Compensation Judge lists 122 cases over a 5-year period.

As claims administators were unable to leverage clear, objective evidence-based treatment guidelines or other utilization management procedures to control the nature and scope of treatment, the duration of medical care and disability increased, fueling higher system costs. In 2002, state lawmakers passed legislation seeking to address the problem by limiting the primary treating physician presumption to predesignated physicians and personal chiropractors. More recent reforms (SB 228) removed the primary treater's presumption in regard to medical issues for cases with dates of injury prior to January 1, 2003. This same legislation mandated medical utilization guidelines which will have the presumption of correctness and be admissible at the Appeals Board.

While these are generally seen as positive first steps, other factors that foster disputes and attorney involvement have yet to be addressed. Most litigation in the California system involves compensation for permanent disability. The predominant issue in dispute is the nature and extent of permanent disability, not its existence. California is a "scheduled rating" state and the extent of permanent disability was intended to be resolved by the Permanent Disability Rating Schedule.

The original rating schedule analyzed injuries based on measurable conditions that any physician could assess — amputation, loss of mobility in a joint, impaired function of the spine — and ranges of impairment that were assessed through medical testing. Every disability was determined with reference to the permanent disability rating schedule. The advent and expansion of work capacity guidelines (narrative descriptions of residual impairment) has injected increasing levels of ambiguity and subjectivity into the rating process. In the past, when an injury was not specifically listed in the schedule, a state disability evaluator would rate the disability by comparing it to a similar one in the schedule. Where ratings by analogy were rare 20 years ago, they have now become routine, and more than half of the ratings are "non-scheduled" ratings — devised with factors outside of the rating schedule.

1 "Litigation in California Workers' Compensation." Report to the Industry, California Workers' Compensation Institute, 1974.
2 Minniear v. WCAB (1996) 61 CCC 1055

During the mid-1990s the Administrative Director of the Division of Workers' Compensation instructed raters not to use work capacity guidelines for the lower extremities when evaluating upper extremity injuries, but by the end of the decade this practice had become the norm and was adopted by custom. The factors of disability have become so confusing and ambiguous that state rating specialists reviewing the same medical report often produce widely divergent estimates.

Another example of the complexity that plagues the California system is a doctrine derived from case law which requires that various injuries be combined into a single (higher) permanent disability rating to take advantage of the progressive nature of the rating schedule. Initially, a combined rating was required if the worker, while working for the same employer, suffered multiple injuries to the same part of the body, which all became permanent and stationary[3] at the same time. Within a few years, the doctrine had evolved to the point where a combined rating was required whenever a body part was affected by both injuries and all disabilities became permanent and stationary at the same time. None of these factors can be found in the permanent disability rating schedule.

Even the question of industrial causation has become less predictable. The system was designed to evolve, and has traditionally expanded to include new injuries and illnesses as medical science discovers the links between the condition and the industrial environment. Examples include asbestosis-related respiratory illnesses, cumulative heart disease, and allergic dermatitis. In the past decade the expansion of the system has accelerated to include new conditions with sometimes vague connections to the workplace — HIV, carpal tunnel syndrome, toxic mold, cancers, and age-related illnesses. This growing list of "possibly work-related" conditions makes it much more challenging for claim administrators to make eligibility determinations. Such an aggressive expansion of potential claims moves the workers' compensation system well beyond its intended design and scope and injects considerably more attorney and judicial involvement into the earliest stages of the claim.

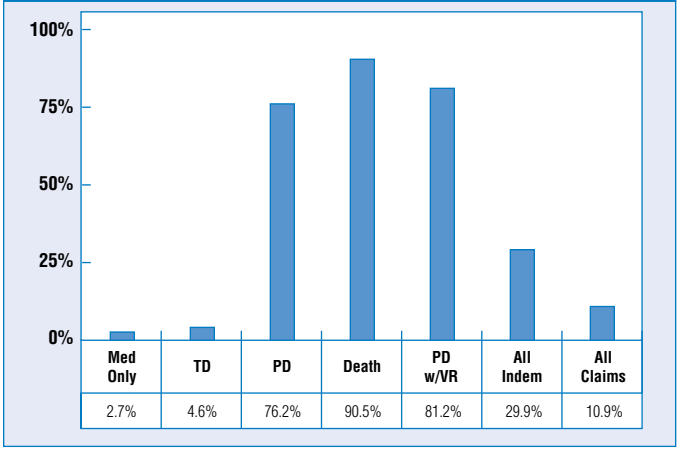
Finally, the process itself has become so convoluted and procedurally complicated that injured workers often seek legal help just to navigate through the "no-fault" system. According to recent research by the Rand Institute For Civil Justice,[4] the California Workers' Compensation Appeals Board, which hears and resolves disputes arising out of workers' compensation claims, has slowed the dispute resolution process to a crawl with procedural litigation over issues like the primary treating physician presumption, compromise and release approvals, and discovery rules. The Board's lack of uniform litigation procedures has added to the dysfunction. While the Rand study does not use data on Appeals Board operations, data used here confirm the growing cost of attorney involvement and the increasing delays in case resolutions cited in the Rand study.

Attorney Involvement Rates

As the foundation for this study, the Institute used the Industry Claims Information System (ICIS) database to compile a sample of more than 1.7 million open and closed claims for injuries occurring between 1993 and December 2000. Of those claims, the analysis identified 247,186 cases that involved a defense attorney, an applicant attorney, or both. Thus, the study found that during this eight-year period, an attorney was involved in just over 14 percent — one out of every seven — California workers' compensation claims.

The 14 percent attorney involvement figure reflects the attorney involvement rate across all open and closed claims in the sample, of which roughly two-thirds were simple medical-only cases, where disputes and litigation are much less likely. To get a better sense of where litigation is occurring, the Institute limited the sample to claims that had been resolved and closed, then sorted the claims by claim type (Exhibit 1). This revealed significant variation in the level of attorney involvement among various types of claims, with the highest rates associated with more complex claims, particularly permanent disability and death cases.

Exhibit 1: Attorney Involvement by Claim Type
1993–2000 Closed & Resolved Cases



Across the claim categories, the degree of attorney involvement ranged from fewer than 3 out of every 100 medical only cases to more than 90 percent of the death claims. Among permanent disability claims, which account for the almost 80 percent of all benefit dollars, attorneys

3 A disability is considered permanent after the employee has reached maximum medical improvement or his or her condition has been stationary for a reasonable period of time. CCR § 10152
4 "Improving Dispute Resolution for California's Injured Workers," Rand Institute for Civil Justice, April 2003.

were involved in three out of every four cases, and the attorney involvement rate rises to 81 percent for claims in which the injured worker received permanent disability as well as vocational rehabilitation benefits.

Attorney Involvement Rate by Nature of Injury and Injured Body Part

To determine what types of injuries are most prone to attorney involvement, the Institute grouped the claim sample according to the nature of injury and by the part of the body that was injured. Exhibit 2 shows the nature of injury categories with the highest attorney involvement rates and Exhibit 3 shows the injured body part categories with the highest attorney involvement rates. In addition to noting attorney involvement rates for all claims in a category, the tables give separate breakouts showing the level of attorney involvement for indemnity claims and permanent disability claims in each category.

Exhibit 2: Attorney Involvement by Nature of Injury – All Closed and Resolved Claims

Nature of Injury	Inj. Group as a % of All Claims	Attorney Involvement Rate – All Cases w/in Inj. Group	Attorney Involvement Rate – Indemnity Cases w/in Inj. Group	Attorney Involvement Rate – PD Claims w/in Inj. Group
Cumulative Inj.	4.0	32.0	55.8	84.0
Mult. Physical Inj.	2.0	27.5	49.2	84.1
Fracture	3.2	22.5	34.6	67.7
Strain	32.1	16.6	35.8	76.5
Sprain	4.4	12.6	28.2	70.1
Contusion	10.8	8.2	29.3	77.0
Laceration	10.2	7.7	16.8	57.9
Puncture	7.9	4.1	18.2	71.3
Foreign Body	5.0	3.2	**	**
Hernia	0.6	**	16.7	**
Carpal Tunnel Syn.	0.9	**	**	69.1
All Other, Classified	10.2	16.2	37.9	73.6
All Other, NOC*	8.7	15.5	40.2	71.7

* Not Otherwise Classified ** Not in the top 10 rankings for this subcategory

Attorney involvement was highest in cumulative injury claims, where one third of all cases, more than half of the indemnity claims, and 84 percent of the permanent disability claims involved attorneys – well above the overall averages in all three cases. The subjective nature and need to establish work causation in cumulative cases likely leads to attorney involvement in these claims. Multiple physical injuries had the second highest attorney involvement rate.

Attorneys were less frequently involved if the nature of injury category had a high proportion of minor injury cases (e.g., those involving foreign bodies, punctures, lacerations, contusions, and sprains). When these types of injuries resulted in a permanent disability, however, the attorney involvement rates still ranged from nearly 58 percent to 77 percent. The analysis of attorney involvement by injured body part (Exhibit 3) also suggests the subjective nature of certain injuries can lead to attorney involvement.

Exhibit 3: Attorney Involvement by Injured Body Part – All Closed and Resolved Claims

Body Part	Inj. Group as a % of All Claims	Attorney Involvement Rate – All Cases w/in Inj. Group	Attorney Involvement Rate – Indemnity Cases w/in Inj. Group	Attorney Involvement Rate – PD Claims w/in Inj. Group
Multiple Body Parts	11.0	26.8	52.0	78.2
Upper Back/Thoracic	7.6	19.7	38.1	84.1
Low Back/Inc. Lumbar	9.8	17.3	35.7	77.0
Knee	5.3	16.4	35.3	67.9
Wrist	4.6	14.5	38.4	67.3
Upper Arm	3.7	13.1	35.8	70.7
Ankle	3.3	9.2	19.9	70.1
Hand	6.3	7.7	25.0	66.8
Finger	11.5	5.5	20.0	57.0
Eye	6.3	3.5	*	82.4
Shoulder	2.0	*	*	70.3
Foot	3.0	*	22.0	*
All Other	25.6	12.2	33.0	74.7

* Not in the top 10 rankings for this subcategory

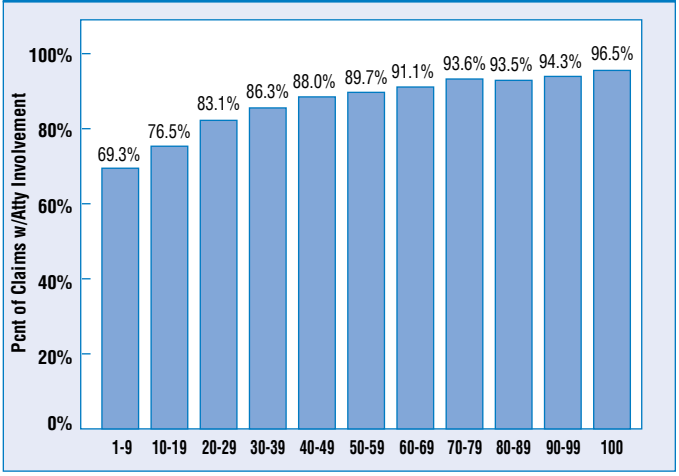
Overall, the attorney involvement rate was highest among claims involving multiple body parts and back injuries — indicative of the complexity of such cases. In contrast, attorney involvement was lowest for eye injuries and injuries to the finger and hand, suggesting that many of these are relatively minor injuries. Among PD claims, the level of attorney involvement was highest for claims involving the upper and lower back, multiple body parts, and eye injuries.

Attorney Involvement by Permanent Disability Rating

As noted earlier, during the early years of the workers' compensation system, permanent disability rating methodology called for objective measurement of physical impairment such as loss of motion, loss of strength, atrophy, or amputation. Today, many permanent disability claims are also rated on "work capacity guidelines." For example, the guideline for a disability precluding very heavy work contemplates that the individual has lost approximately one-quarter of his pre-injury capacity for performing such activities as bending, stooping, lifting, pushing, pulling and climbing or other activities involving comparable physical effort. Such guidelines utilize the verbal descriptors of how the medical condition affects the ability of the injured worker to carry out the daily activities of work. Thus, in addition to objective measures of impairment, permanent disability raters now use such subjective descriptors as "pain," "weakness," or "fatigue," to determine work capacity levels – language that leaves more room for permanent disability disputes and a greater likelihood of attorney involvement.

Overall, almost eight out of 10 claims with permanent disability have attorney involvement. Exhibit 4 shows that claims with higher permanent disability ratings are more likely to have attorney involvement than lower rated claims. Attorney involvement on claims with permanent disability ranges from 69.3 percent for the lowest rated injuries to 96.5 percent for claims with 100 percent impairment.

Exhibit 4: Atty Involvement by Permanent Disability Rating
All Closed and Resolved Claims



Claims w/ Attorney Involvement by Industry Group

The Institute next analyzed how attorney involvement varies by industry. Each claim in the 8-year study sample contained a 4-digit governing class code, so the claims were categorized using a standard crosswalk table provided by the Workers' Compensation Insurance Rating Bureau that consolidates more than 500 class codes into 14 industry groups. The percentage of attorney involvement claims within each of these industry groups was then calculated. Within each industry sector, results were also broken out separately for indemnity claims and permanent disability claims (Exhibit 5).

The level of attorney involvement varied significantly across industries. The lowest rates were 8.3 percent of all claims in the Aircraft Operations industry, and 27.2 percent for indemnity claims in that sector. Among permanent disability claims, the Professional and Clerical sector edged out Aircraft Operations for the lowest attorney involvement rate — 74.6 percent. On the flip side, the highest levels of attorney involvement were in the Textile Manufacturing sector, with attorney involvement rates for all claims, indemnity claims, and PD claims of 15.4 percent, 44.4 percent and 84.5 percent respectively.

Exhibit 5: Attorney Involvement by Industry Group –
All Closed and Resolved Claims

Industry Group	% of All Injuries	Attorney Involvement All Claims	Attorney Involvement Indemnity Claims	Attorney Involvement PD Claims
Construct. or Erection	11.2	14.0	29.4	76.5
Mfg–Metal	5.5	10.7	33.6	75.6
Mfg–Wood	1.7	11.6	31.0	77.4
Mfg–Plastic & Rubber	1.2	12.6	36.6	80.2
Mfg–Paper	1.0	12.9	35.2	75.8
Mfg–Textile	2.1	15.4	44.4	84.5
Mfg–Food	2.9	11.2	29.3	75.5
Mfg–Electronics	1.7	11.2	36.3	78.2
Mfg–Other	1.7	12.5	36.2	81.7
Agriculture	5.1	14.0	29.7	80.8
Mercantile	11.2	11.3	29.5	77.3
Aircraft Operation	0.3	8.3	27.2	75.0
Professional/Clerical	21.3	10.9	31.7	74.6
Other	33.1	12.1	30.9	78.9
N/A	0.4	4.9	21.0	64.9

Level of Attorney Involvement by Premium Size

A related factor that may affect the attorney involvement rate is the size of the employer, as larger employers may have more resources to devote to communicating with their injured workers and may be in a better position to allay some of the fears and anxiety that can lead to litigation. To test that notion, the Institute categorized the claim sample by employer size, as measured by audited premium values (Exhibit 6). With the exception of very small employers (those with annual premiums of less than $10,000), there was an inverse relationship between employer size and the level of attorney involvement. Simply put, the larger the employer, the lower the attorney involvement rate. Among employers with less than $1 million in premium, about 75 to 80 percent of permanent disability claims involved attorneys, compared to two out of three permanent disability claims against employers with more than $1 million in premium.

Exhibit 6: Attorney Involvement by Premium Size –
All Closed and Resolved Claims

Premium Size	% of All Industry	Attorney Involvement Rate All Claims	Attorney Involvement Rate Indemnity Claims	Attorney Involvement Rate PD Claims
< 1K	19.7	10.7	27.3	81.0
1 – 9K	12.2	14.5	33.9	77.7
10 – 49K	22.1	12.8	32.0	77.7
50 – 99K	11.7	12.2	31.6	78.7
100 – 499K	20.5	11.4	30.4	78.5
500 – 999K	4.2	10.4	29.8	74.7
>1M	9.5	9.0	26.6	65.6
N/A	0.2	4.7	21.1	65.0
Total	100.0%	10.9%	29.9%	76.2%

These data show that larger risks are less associated with attorney involvement and litigation. This makes intuitive sense, as many large employers employ safety personnel to help prevent the more severe losses that are most likely to result in attorney involvement, and risk managers to help control losses once they occur. Many large employers have risk management departments that follow the course of a claim carefully to mitigate events that might otherwise lead an injured worker to an attorney. Larger employers also are more capable of providing benefit packages that supplement workers' income while they are off work and are better able to bring workers back to modified work to minimize the adverse effects of injury. Just how much these elements contribute to the reduction in attorney involvement is subject to further analysis, but the data support the hypothesis that larger employers are associated with lower levels of attorney involvement than smaller employers.

Attorney Involvement by Region

Prior research and anecdotal evidence indicate that the incidence and cost of litigation in California varies dramatically by region. Overall litigation rates and costs have consistently been higher in Southern California than in Northern California, with litigation being most prevalent and expensive in the Los Angeles Basin.

ICIS includes data on the injured worker's county of residence, so the Institute determined the distribution of attorney involvement claims by county. Limiting the analysis to closed and resolved cases, the study found that statewide, about one out of nine workers' compensation claims (including medical-only claims) involved attorneys – the combination of an 8.9 percent attorney involvement rate in Northern California and an 11.6 percent rate in Southern California (Exhibit 7).

Looking at specific counties, nearly one out of seven claims by residents of Ventura, Santa Barbara and San Luis Obispo involved attorneys, a rate that was over one-third higher than the statewide average. At the low end, attorneys were involved in only 7.4 percent of claims by Santa Clara County residents — 28 percent below the state average. Focusing on indemnity claims, the attorney involvement rate in Southern California was 34.3 percent versus 24.1 percent in the north – a relative difference of 42 percent.

As in past studies, the Los Angeles region had some of the highest levels of attorney involvement in the state, particularly among permanent disability claims. More than 80 percent of permanent disability cases in Los Angeles County and the nearby Inland Empire involved attorneys, compared to the statewide rate of 76 percent.

Exhibit 7: Attorney Involvement by Region – All Closed and Resolved Claims

Region	% of All Injuries	Attorney Involvement All Claims	Attorney Involvement Indemnity Claims	Attorney Involvement PD Claims
Los Angeles	21.6	12.0	36.0	80.3
Orange	4.7	11.0	37.2	78.6
Ventura, SB, SLO	4.5	13.9	35.2	75.4
Inland Empire*	7.0	12.0	35.0	80.8
San Diego	7.6	10.0	28.5	72.1
Balance South	2.7	9.7	26.8	74.6
Total South	**48.1**	**11.6**	**34.3**	**78.3**
Santa Clara	5.1	7.4	21.6	72.1
Monterey, San Benito Santa Cruz	2.8	9.0	24.5	78.2
Butte, Sutter, Yuba	1.5	10.0	29.2	80.8
SF, Bay Area	14.9	8.9	22.4	70.6
Sacto, San Joaquin	5.7	9.1	26.3	74.9
Fresno	4.1	9.3	26.3	73.5
Balance North	10.4	9.5	25.1	73.5
Total North	**44.6**	**8.9**	**24.1**	**73.0**
N/A	7.2	16.9	47.6	78.5
Statewide Total	**100**	**10.9**	**29.9**	**76.2**

* Riverside, San Bernardino and Imperial Counties

Average Legal Costs

One way to measure the cost of attorney involvement in workers' compensation is to calculate the average "frictional cost" of a claim — the sum of applicant and defense attorney fees, medical-legal expenses, and other legal expenses such as deposition costs, photocopying, etc.

On average, all claims involving attorneys had frictional costs totaling $4,041. The breakdown of legal expense components for the entire sample of closed and resolved litigated claims between 1993-2000 shows that workers' compensation litigation costs are higher for the defense side. While applicant attorney fees across all claims during this 8-year period averaged $1,046, or 25.9 percent of all legal payments, defense attorney costs averaged $1,393, or 34.5 percent of total legal payments. Furthermore, defense medical-legal expenses were about three times the applicant medical-legal costs, and payments for "All Other" legal expenses showed an even greater disparity, with the defense side incurring nearly 97 percent of those payments[5].

Overall, defense costs average 111 percent higher than applicant costs for all closed and resolved claims with attorney involvement, but those figures are skewed by lien claims and less expensive medical-only, temporary disability, and minor PD cases, many of which involve defense attorneys, but which have little or no applicant attorney involvement. Most of the frictional costs in the system come from permanent disability claims, and the major PD claims (those with a final PD rating of 25 percent or

5 Since 1993, the opinion of the primary treating physician has been given presumptive weight in the system and the parties have struggled to gain the right to select that physician. When a party chooses the PTP, they can rely on that physician's opinion and need not resort to a QME, AME or other medical/legal examiners. Since the injured workers have the right to "free choice" of treating physician, it has become routine to select providers who are familiar with the workers' comp system and can act as both treating physician and medical legal evaluator. The total cost of these evaluators is not reflected in the medical legal cost estimates.

greater), generate the greatest expense. For example, using Accident Year insured claim counts supplied by the Rating Bureau, and applying the litigation costs and incidence data from this study, the Institute estimated that legal costs on insured claims for Accident Year 2002 totaled $646 million. A breakdown by claim type shows medical-only and TD claims each accounted for 3 percent of total legal costs, death claims accounted for 1 percent, and minor PD cases represented 34 percent. In contrast, 59 percent of the litigation costs came from major PD claims, even though these represented less than 30 percent of all PD claims in which the rating was noted.

Exhibit 8 is based on the subset of claims in which the PD rating was identified and shows that major PD claims not only have the highest attorney involvement rate, their average litigation costs are also much higher. Legal costs on major PD claims were more than twice the average for all attorney involvement claims and 88 percent higher than minor PD cases involving attorneys.

Exhibit 8: Average Legal Costs – All Years–PD Claims

	All Claims	PD Minor*	PD Major*
Applicant			
Attny Fees	$ 1,046	$ 1,191	$ 3,538
Med Legal[6]	$ 233	$ 238	$ 274
Other	$ 22	$ 31	$ 21
Total	$ 1,301	$ 1,460	$ 3,833
Defense			
Attny Fees	$ 1,393	$ 1,509	$ 2,078
Med Legal	$ 626	$ 673	$ 1,098
Other	$ 721	$ 804	$ 1,343
Total	$ 2,740	$ 2,986	$ 4,519
Total			
Attny Fees	$ 2,439	$ 2,700	$ 5,616
Med Legal	$ 859	$ 911	$ 1,372
Other	$ 743	$ 835	$ 1,364
Total	$ 4,041	$ 4,446	$ 8,352

* Averages for claims where PD rating was included.

Frictional expenses on the applicant side account for 46 percent of the litigation costs on the major PD claims, while frictional expenses on the defense side account for 54 percent. Just as with all claims, among major PD claims, med-legal and "other" expenses for depositions, photocopying, etc. are much higher for the defense, but unlike other types of claims, attorney fees on these claims are much higher on the applicant side, averaging 70 percent more than defense attorney fees.

Several factors account for the differences in applicant and defense costs. For example, applicant attorney fees are set by the workers' compensation judge, and are generally set at 12 to 15 percent of the permanent disability award, while defense attorneys bill their clients an hourly fee, making the granting of continuances and trial delays at the Appeals Board particularly expensive for the defense. Furthermore, the defense usually has the burden of proof, which requires greater medical-legal costs and costs of investigation, depositions, photocopying, etc.

Legal Costs by Region

The analysis of legal costs by the injured worker's county of residence (Exhibit 9) shows that across all claim types, average legal costs are 24.1 percent higher in Southern California than in Northern California. Limiting the analysis to just indemnity claims, costs in Southern California average 20.5 percent higher, while a comparison of litigation costs among permanent disability claims shows Southern California costs are 17.6 percent higher.

Exhibit 9: Average Legal Cost by Region – All Closed and Resolved Claims (All Years)

	All Claims	Indemnity Claims	PD Claims*
Los Angeles	$ 4,870	$ 5,417	$ 5,536
Orange	$ 4,438	$ 4,923	$ 5,009
Ventura, SB, SLO	$ 4,195	$ 4,659	$ 4,812
Inland Empire (Riverside, San Bern, Imperial)	$ 4,136	$ 4,572	$ 4,663
San Diego	$ 3,021	$ 3,431	$ 3,489
Balance South	$ 3,724	$ 4,049	$ 4,192
Total South	**$ 4,362**	**$ 4,846**	**$ 4,946**
Santa Clara	$ 3,574	$ 4,425	$ 4,747
Monterey, San Benito, Santa Cruz	$ 3,534	$ 4,170	$ 4,443
Butte, Sutter, Yuba	$ 3,475	$ 3,853	$ 3,897
SF, Bay Area	$ 3,405	$ 4,013	$ 4,281
Sacto, San Joaquin	$ 3,571	$ 4,012	$ 4,183
Fresno	$ 3,578	$ 3,885	$ 3,966
Balance North	$ 3,601	$ 3,935	$ 4,028
Total North	**$ 3,516**	**$ 4,020**	**$ 4,207**
N/A	$ 3,582	$ 4,994	$ 5,058
Grand Total	**$ 4,041**	**$ 4,535**	**$ 4,666**

* Averages for all PD claims including those where the PD rating was omitted.

Claims with attorney involvement in Los Angeles County were the most expensive in the state, with litigation expenses running about 20 percent above the statewide averages. On the other hand, San Diego County had the lowest litigation expenses in the state, as legal costs averaged 25.2 percent below the statewide level overall, 24.3 percent less for indemnity claims, and 25.2 percent less for permanent disability claims.

Average Legal Cost by Industry Group

The analysis also examined average legal costs for 14 key industry sectors, with separate results again broken out for indemnity claims and permanent disability claims in each category (Exhibit 10). As in the broader legal cost analysis, the legal costs included payments for defense and applicant attorney fees, medical-legal expenses, and other expenses such as payments for depositions and photocopying.

6 The minimum fee for a med-legal exam is $500, however Exhibit 8 shows average med-legal payments for all claims in the sample, including claims for which no med-legal exams were reported. Therefore, the average amount paid for applicant med-legal reports is less than the minimum per report fee.

Exhibit 10: Average Legal Cost by Industry Group – All Closed and Resolved Claims

Industry Group	All Claims	Indemnity Claims	PD Claims
Construction or Erection	$ 4,129	$ 4,613	$ 4,814
Mfg – Metal	$ 3,705	$ 4,488	$ 4,653
Mfg – Wood	$ 3,537	$ 3,914	$ 4,050
Mfg – Plastic & Rubber	$ 3,899	$ 4,737	$ 4,872
Mfg – Paper	$ 3,842	$ 4,588	$ 4,699
Mfg – Textile	$ 4,674	$ 5,322	$ 5,384
Mfg – Food	$ 4,020	$ 4,695	$ 4,915
Mfg – Electronics	$ 3,679	$ 4,660	$ 4,860
Mfg – Other	$ 3,818	$ 4,481	$ 4,573
Agriculture	$ 3,708	$ 4,118	$ 4,282
Mercantile	$ 3,834	$ 4,360	$ 4,516
Aircraft Operations	$ 3,409	$ 3,640	$ 3,376
Professional / Clerical	$ 3,902	$ 4,187	$ 4,116
Other	$ 3,857	$ 4,332	$ 4,481
N/A	$ 5,608	$ 6,183	$ 6,467
Total	**$ 4,041**	**$ 4,535**	**$ 4,666**

Legal costs were highest in the Textile Manufacturing industry, averaging $4,674 for all claims in the sector, $5,322 for indemnity cases, and $5,384 for claims with permanent disability. The lowest legal costs were in the smallest industry sector, Aircraft Operations, where these expenses ran $3,409 for all claims, $3,640 for all indemnity claims and $3,376 for permanent disability claims.

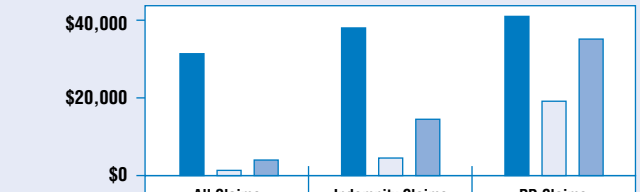
Average Benefit Payments per Claim

To get a sense of the ultimate outcome of claims in which attorneys were involved, the Institute compared benefit payments (medical plus indemnity) for three subsamples of closed and resolved claims: all closed and resolved claims (including medical-only cases); closed and resolved indemnity claims (temporary and permanent disability cases); and closed and resolved permanent disability cases.

For the 8-year period of the study, benefit payouts on all closed claims averaged $4,697 (Exhibit 11). Among the cases that involved an attorney, however, benefit payments averaged $31,768, or more than 23 times the average paid in benefits for claims without attorney involvement ($1,392), reflecting a number of factors including greater levels of complexity and severity, longer durations, and greater potential for administrative and judicial delays.

Benefit payments for all indemnity claims averaged $14,468. Average benefit payments for the 30 percent of those claims that had an attorney involved were $37,984, or nearly nine times the average payout for an indemnity claim in which no attorney was involved. Permanent disability claims with attorney involvement are the most complex and costly claims in the workers' compensation system. Because the vast majority of permanent disability claims (three out of four) involved an attorney, the $40,815 in average benefit payments on these claims was only 14 percent higher than the average for all PD claims, but that amount was more than twice the $19,811 paid in benefits on PD claims without attorney involvement.

Exhibit 11: Average Benefit Payments – All Closed and Resolved Claims



	All Claims	Indemnity Claims	PD Claims
Atty Involved	$ 31,768	$ 37,984	$ 40,815
No Atty Involved	$ 1,392	$ 4,443	$ 19,811
Total	$ 4,697	$ 14,468	$ 35,811

Workers' compensation benefits are comprised of medical payments, which include inpatient hospital admissions, medical provider fees, pharmacy reimbursements, med-legal expenses and medical cost containment fees; and indemnity benefits, which include payments for temporary disability, permanent disability, vocational rehabilitation, and death benefits. Exhibit 12 separates out the average medical and indemnity benefit payments for all closed and resolved claims, and also includes breakouts for indemnity claims, and PD claims.

Exhibit 12: Average Benefit Payment Distributions Attorney vs. No Attorney Cases – All Closed and Resolved Claims

	All Claims	Indemnity Claims	PD Claims
Attorney Involved			
Indemnity	$ 20,287	$ 24,378	$ 26,206
Medical	$ 11,481	$ 13,606	$ 14,609
Total	**$ 31,768**	**$ 37,984**	**$ 40,815**
No Attorney Involved			
Indemnity	$ 511	$ 2,154	$ 11,525
Medical	$ 881	$ 2,289	$ 8,286
Total	**$ 1,392**	**$ 4,443**	**$ 19,811**
All Claims			
Indemnity	$ 2,663	$ 8,797	$ 22,708
Medical	$ 2,034	$ 5,671	$ 13,103
Total	**$ 4,697**	**$ 14,468**	**$ 35,811**

For all claims, medical payments averaged $2,034 or 43 percent of all benefits paid – while indemnity benefits averaged $2,663, or 57 percent. Comparing the breakdowns between cases with attorneys and those without (most of which were relatively simple medical-only or temporary disability cases) shows 63 percent of the benefit

expense for claims with no attorney involvement (an average of $881) went toward medical care, while indemnity benefits represented 37 percent, or an average of $511. The reverse was true for claims involving attorneys. Most of those cases resulted in permanent disability awards, so indemnity payments represented 64 percent of the benefits paid (an average of $20,287), while medical expenses consumed 36 percent, or $11,481.

Among the permanent disability claims, those involving an attorney averaged $14,609 in medical payments, 76 percent more than permanent disability cases with no attorney, while indemnity payments averaged $26,206, more than double the indemnity payments on permanent disability claims with no attorney involvement. One explanation could be that those permanent disability claims without attorneys tend to be less subjective cases in which there are fewer disputes, so there may be less need and willingness on the part of attorneys to get involved. This was also supported by the earlier finding (Exhibit 4) which showed lower attorney involvement rates among claims with lower permanent disability ratings.

Attorney Involvement Costs by Claim Type

One way to measure the impact of litigation as a benefit delivery mechanism is to determine the average cost to deliver $1 in benefits to the injured worker. For this portion of the analysis, open claims were excluded, as their litigation costs were still accruing.

Exhibit 13 displays average benefit and legal costs by claim type for closed and resolved claims for the 1993 – 2000 period. Overall, frictional costs averaged 12.7 percent of benefit payments during this 8-year span, but the results varied significantly by claim type.

Exhibit 13: Cost of Attorney Involvement by Claim Type – All Closed and Resolved Claims

Claim Type	Avg. Benefit All Claims	Avg. Benefit Claims w/ Attorney	Avg. Legal Cost	Avg. Legal Cost as % Avg. Benefit
Medical Only	$ 494	$ 2,232	$ 1,693	75.9
All Indemnity	$14,468	$37,984	$ 4,535	11.9
T.D. Only	$ 2,678	$ 9,596	$ 3,034	31.6
PD	$35,811	$40,815	$ 4,666	11.4
Death	$89,428	$91,480	$10,143	11.1
All Claims	$ 4,697	$31,768	$ 4,041	12.7

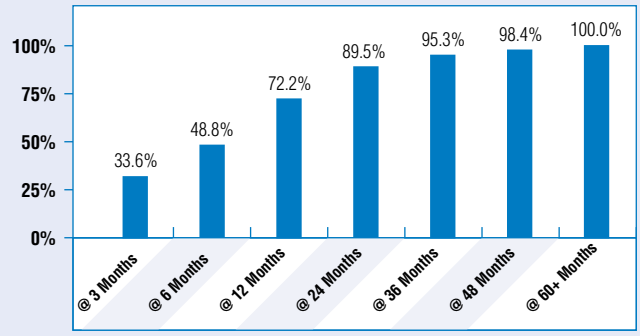
Medical-only claims were the least expensive and least contentious claims, and as Exhibit 1 showed, less than 3 percent of these cases involved attorneys. Because average benefits paid on these claims are much less than in other types of claims, in cases where an attorney did get involved in a medical-only claim, the frictional costs translated to nearly 76 cents for every $1 dollar in benefits delivered.

Likewise, most temporary disability claims are not litigated, but with average benefits of $9,596, the frictional costs for the temporary disability claims that do involve attorneys work out to nearly 32 cents for every dollar of benefit. Frictional costs are highest for death claims, but as with permanent disability cases, benefit payments are higher as well, so for both types of claims, the litigation expenses on attorney involvement claims consumed just over 11 cents for every $1 of benefits.

Timing of Attorney Involvement

On several occasions since the late 1980s, the California Legislature has enacted statutory changes and structural reforms to the workers' compensation system in an attempt to contain costs, improve benefit delivery, and in some cases, streamline the process. While the results of those efforts are subject to debate, one outcome is clear – the system has become more complex for everyone involved. As a result of the growing complexity, it is widely believed that the timetable for attorney involvement from both the applicant and the defense sides is shortening. To test that notion, the Institute reviewed a subsample of the most mature data in the claims sample (accident years 1993 through 1998), identifying the point at which the attorney became involved, and tracking any changes in that timetable.

Exhibit 14: Timing of Attorney Involvement – All Closed and Resolved Claims



The data confirm that attorney involvement typically begins early in the life of a claim (Exhibit 14). In one out of three attorney involvement claims, either an applicant or defense attorney (or both) was on the case within three months of injury; and in nearly half the cases, attorney involvement began within six months. In all the litigated claims, an attorney was present within five years of the injury.

Exhibit 15 tracks changes in initial attorney involvement over time. After identifying the attorney involvement claims from each accident year, the Institute developed distributions for each year showing the percentage of the claims in which payments to either an applicant or a defense attorney had been made within seven standard time frames (3 months, 6 months, 9 months, 1 year, 2 years, 3 years, 4 years and 5 or more years post injury).

For example, 36 percent of accident year 1993 attorney involvement claims had an initial attorney payment within 3 months of the date of injury, while half the claims had an initial attorney payment within six months of injury. Most, if not all, of these early payments would have been from the defense side, as applicant attorneys are not paid until the case is settled. As noted on Exhibit 15, within five years (60 months) of the injury, attorney payments to either the applicant or the defense side (or both) were identified on all litigated claims.

Exhibit 15: Cumulative Rate of Attorney Involvement by Year

	@ 3 Mo	@ 6 Mo	@ 9 Mo	@ 12 Mo	@ 24 Mo	@ 36 Mo	@ 48 Mo	60 + Mo
'93	36.2%	49.9%	58.7%	65.7%	79.6%	88.4%	93.6%	100.0%
'94	29.6%	42.2%	51.1%	58.8%	78.0%	88.1%	94.8%	
'95	26.7%	39.8%	50.9%	60.9%	83.2%	94.2%	97.8%	
'96	30.6%	46.7%	58.0%	67.8%	90.0%	96.7%	99.4%	
'97	37.4%	55.3%	67.5%	77.4%	93.7%	98.8%		
'98	42.9%	61.2%	73.0%	81.8%	97.2%			

Comparisons of results from Accident Years 1993 through 1998 indicate the acceleration in the timing of attorney involvement, with initial payments to attorneys occurring earlier in the life of the claim. For example, the proportion of litigated claims with attorney payments within the first three months of a claim's life rose from 36.2 percent in 1993 to 42.9 percent in 1998, while the proportion with an attorney payment within six months of injury jumped from 49.9 percent to 61.2 percent during the same period. Similarly, the proportion of litigated claims with an attorney payment within 2 years of injury climbed from just under 80 percent for accident year 1993 to 97 percent for accident year 1998, confirming that attorney involvement has been occurring earlier in the life of the claim.

Why are attorneys becoming involved in claims earlier? In the past, as long as no disputes over lost work time and medical care occurred, attorney involvement usually occurred at the time the injured worker's condition became permanent and stationery (i.e., the point at which the doctor determined that the worker's condition was not expected to improve or deteriorate in the foreseeable future). This is also when the treating physician would determine the nature and extent of the worker's permanent disability, so from the applicant side, attorney involvement at this point would center around obtaining medical reports to ensure the worker received the highest permanent disability award or settlement commensurate with his or her medical condition. Applicant attorneys are paid a percentage of the permanent disability award, providing an incentive for them to obtain the highest possible permanent disability rating for the injured worker.

Absent sufficient direct evidence of increasing disputes about lost work time and medical care prior to the worker's permanent and stationary status, there may be other factors that bring attorneys in earlier. Conventional wisdom says that attorneys began entering claims earlier after the statutory changes in 1993 gave the rebuttable presumption of correctness to the primary treating physician's opinions relating to the nature and extent of permanent disability. As noted earlier, court rulings subsequently extended the presumption to all medical issues, and applicant attorneys began taking an active role earlier in the claim process to assure that the primary treating physician on the claim was selected by the injured worker rather than the employer.

A second factor that may have spurred early attorney intervention revolves around the injured workers' right to penalties for "unreasonably" late or nonpayment of any benefit, including medical and temporary disability benefits which are typically due from the very early stages of a claim. Case law requires that these penalties be applied not only to the delayed benefits, but to the entire "species" of benefits delivered in the past, present and future, regardless of their timeliness. This potential for enhanced benefits (and the attorney fees associated with them), even at the very early stages of a claim, may provide additional incentives to trigger attorney involvement.

Method of Resolution

Overall, 87 percent of all claims involving attorneys receive some type of award. Exhibit 16 shows the distribution by method of resolution. Nearly two-thirds of the attorney involvement claims are settled through a compromise and release agreement ("C&R"), which is a negotiated settlement approved by a workers' compensation judge. That proportion is even higher among indemnity and permanent disability claims, where C&R settlements account for more than three out of four cases.

Exhibit 16: Method of Claim Resolution – All Closed and Resolved Claims

Method of Resolution	% Total	Avg. Legal Cost
C & R	63.8%	$ 4,708
Dismissal/Take Nothing	12.9%	$ 814
Findings & Award	8.8%	$ 2,165
Stipulated Award	8.1%	$ 1,647
All Other	6.4%	$ 3,048

In contrast, about one out of every eight attorney involvement claims results in a either a dismissal or an order by the judge that the claimant "take nothing," and that rate drops to 2.1 percent of dispositions in indemnity claims, and less than 1 percent of dispositions in claims involving permanent disability. About one out of 11 cases is resolved with a judicial findings and award (F&A) following a trial, one out of 12 is resolved with a stipulated agreement

between the parties, and about one of 16 claims result in other types of dispositions.

Compromise and release agreements, which are by far the most common form of settlement, also have the highest legal costs. The average litigation cost on a C&R claim is just over $4700 — more than twice the litigation cost for a case resolved through a findings and award, and nearly triple the cost of a case settled via a stipulated agreement. Even claims that result in a take nothing or dismissal incur substantial litigation costs, however, averaging more than $800 per case.

Anecdotal information suggests that larger employers (risks) tend to emphasize findings and awards rather than compromise and release because the employee is likely to return to work and remain employed with the same employer. Use of findings and awards helps document pre-existing conditions should the employee have a subsequent injury. In addition, the employer might be eligible for a degree of apportionment of residual disability to any prior injury. The data, however, suggest that larger employers did not use findings and awards to a significantly greater degree than smaller employers. In fact, employers with less than $1,000 in annual premium appear to be most prone to using findings and awards (10.2 percent of all dispositions). Employers with premium between $1,000 and $49,999 appear to use compromise and release settlements somewhat more frequently than others with higher or lower premium.

Anecdotal information also suggests that some payers have increased the use of stipulated awards in recent years. The concern here is that these claims could reopen after time, adversely impacting future loss development. The study, however, found no evidence of this between 1994 and 1998, and results from later years are still too "green" to observe whether this is, in fact, happening.

The study did identify regional differences in the method of claim resolution. Exhibit 17 shows C&R agreements were used most often in Los Angeles and its outlying regions (Los Angeles, Orange and the Inland Empire Counties).

C&Rs also were the most common method of resolution in the north, although they represented less than three out of four dispositions in the San Francisco Bay Area – the lowest percentage in the state. The key difference was the proportion of Bay Area claims resolved with stipulated awards was nearly double the percentage in Southern California.

Exhibit 17: Methods of Resolution by Region – All Closed and Resolved Claims

Region	C&R	F&A	Stipulated Award	Dismissal/TN
Los Angeles	85.9%	2.6%	10.6%	0.9%
Orange	85.6%	1.3%	12.2%	0.9%
Ventura, SB, SLO	83.2%	0.8%	15.0%	1.0%
Inland Empire	85.5%	1.1%	12.6%	0.8%
San Diego	82.5%	1.4%	15.4%	0.7%
Balance So. Cal.	80.6%	1.4%	17.5%	0.5%
Total So. Cal.	**85.0%**	**1.7%**	**12.5%**	**0.8%**
Santa Clara	76.4%	1.6%	21.0%	1.0%
Monterey, S.Benito, S Cruz	76.8%	1.9%	20.4%	0.9%
Butte, Sutter, Yuba	79.2%	2.3%	17.7%	0.8%
SF Bay Area	73.9%	2.1%	22.9%	1.1%
Sacto, San Joaquin	80.3%	1.8%	16.9%	1.0%
Fresno	78.9%	0.8%	19.5%	0.8%
Balance No. Cal.	74.1%	1.4%	23.6%	0.9%
Total No. Cal.	**75.9%**	**1.7%**	**21.4%**	**1.0%**
Statewide	**81.3%**	**1.7%**	**16.1%**	**0.9%**

Discussion

Few would argue that the uncertainty that fosters litigation has lessened in the last three decades. To the contrary, the results of earlier Institute research[7] found an acceleration in the level of litigation since the implementation of legislative reforms enacted in the mid 1990's. In that study, case-mix adjusted litigation rates in the pre-reform period (1993-1994) were 9.7 percent; increased to 13.8 percent as the legislative and regulatory reforms were implemented (1995-1996); then rose to 20.4 percent in the post-reform phase (1997-1999). This suggests that earlier reform attempts may have helped fuel uncertainties and potential areas of dispute that led to litigation.

The findings of this research support the view that attorney involvement is becoming even more ingrained in the system – occurring earlier in the life of the claim and in the vast majority of permanent disability claims, where the subjectivity of rating impairments makes the system ripe for disputes. At the same time, it shows that the incidence and cost of attorney involvement vary by industry group, employer size, region, and injury type. Furthermore, the costs of attorney involvement are largely borne by the defense side. This should be a major concern for employers, who are demanding more aggressive defense of claims, and who already face significant increases in their premiums due to the rising cost of litigation, medical care, and benefit delivery.

The causal link between litigation and high cost claims is referred to in research circles as an endogenous relationship – a chicken and the egg debate. Put another way, do high cost claims trigger litigation or does litigation "manufacture" a high cost claim? To fully explore this question

7 Gardner L, Swedlow A. The Effect of 1993 – 1996 Legislative Reform Activity on Medical Cost, Litigation and Claim Duration in the California Workers' Compensation System. California Workers Compensation Institute Research Note. May 2002

requires additional data not commonly found in administrative databases. Such data include pre-injury health status information, prior litigation history, and precise "timing" data on litigation triggers such as first contact and reason for contact between injured worker and attorney.

Alternative Dispute Resolution

Many stakeholders are intent on finding market-based solutions to the workers' compensation crisis of continued adverse loss development and increasing litigation. One area where there is great interest is alternative dispute resolution carve-out programs. These carve-outs, which began in California in 1993[8], sought to promote better cooperation between labor and management and to expedite benefit delivery resulting in faster return to work, reduced litigation, and lower costs.

To date, there have been few outcome studies of the carve-out system, mostly due to the small number of claims which have passed through the system. CWCI will shortly publish an indepth analysis of performance measures comparing the California alternative dispute resolution system to the conventional statutory claims process.

Data and Methods

All data used in this analysis were compiled from the Industry Claim Information System (ICIS). ICIS, a proprietary transactional database maintained by the California Workers' Compensation Institute, contains detailed information on over 2.5 million workplace injuries, including employer and employee characteristics, medical service information and benefit and other administrative cost information. The study used claim detail from six data providers representing more than half (56 percent) of California direct written premium. The study used data from both open and closed claims with dates of injury between 1993 and 2000, and results are presented by accident year.

Claim costs, legal costs and the incidence of litigation are generally lower in newer open claims because they are less developed than claims from earlier years. In addition, the first claims to close in each accident year are usually lower value, less complex cases that are less likely to involve attorneys, which skews results for the most recent years to the low side. Therefore, to get the most accurate read on the level of attorney involvement, the study examined data from both open and closed claims to measure incidence, while to measure costs, the study focused on closed and resolved claims, which more accurately reflect ultimate legal costs. As a result, the size of the samples used in different parts of the analysis varied slightly depending on the variable measured, as claims not containing a necessary data element were omitted. This resulted in minor variations in claim frequency, benefit or legal cost totals between exhibits, but had little effect on overall validity due to the randomness of the claims excluded in each exhibit.

CWCI studies on litigation from the early 1990s utilized claims data abstracted by member insurer claim departments where an "Application For Adjudication" had been filed with the Workers' Compensation Appeals Board. Upon implementation of the ICIS database in 1998, the abstracting process was abandoned. Because ICIS contains no information about the filing of an Application For Adjudication, the Institute now tracks litigation by flagging any claim in the database that has either an applicant or defense attorney payment or a carrier submitted litigation indicator. Therefore, this study measures "attorney involvement" — whether or not an Application For Adjudication has been filed — and the results of this research should not be used for direct comparisons to the Institute's early litigation studies.

8 California Labor Code §3201.5

About CWCI

The California Workers' Compensation Institute, incorporated in 1964, is a private, nonprofit organization of insurers and self-insured employers conducting and communicating research and analyses to improve the California workers' compensation system. Most CWCI research is unique, as it is based on operating data collected from member companies specifically for the Institute.

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