

## PARSAC's Litigation Policies and Procedures

PARSAC maintains a comprehensive litigation management program. The objective is to assign cases to law firms that are most qualified to handle the defense of public entity tort liability, while producing the best outcomes and ensuring cost efficient representation without compromising the quality of that representation.

Questions regarding these policies should be directed to PARSAC's Litigation Manager:

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### A. ASSIGNMENT OF CASE

PARSAC retains the sole right to select Defense Counsel on behalf of the member entity and may assign the task to its Litigation Manager. Within 7 days of receipt of an assignment, Defense Counsel shall submit a written acknowledgement of the assignment. Defense Counsel shall receive a copy of all pleadings and other pertinent file materials obtained by PARSAC or its member entity.

It is PARSAC's intent to establish positive working relationships with individuals within a firm who are experts in a particular litigation field. With that in mind, the assignment is made with the understanding that a specific attorney will handle litigation. Partners may at times require assistance from an associate for their assigned cases. Should it become necessary for the associate or other partner in the firm to take full responsibility for a case, they may do so only with PARSAC's prior approval.

We encourage the collaboration of colleagues within the firm and the astute use of resources. We request firms exercise discretion in the allocation of tasks to avoid duplication of effort and cost. It is PARSAC's position to compensate only one attorney (i.e. for attendance at a deposition) unless prior approval is secured. We support the use of paralegals when appropriate.

Below is the current maximum fee schedule:

Partners/Of Counsel	\$225.00
Associates	\$185.00
Paralegals	\$ 90.00

Rates charged in excess of the above fee schedule are the responsibility of the member entity, will not be paid by PARSAC, and do not reduce the member's SIR obligation.

## B. REPORTING

### I. Preliminary Report

Within 45 days following receipt of the assignment, the handling attorney must provide the Litigation Manager a preliminary evaluation of the lawsuit containing the following:

- a. A brief summary of the allegations set forth by the plaintiff(s).
- b. The factual basis of the litigation.
- c. An evaluation of liability and damage exposure. Summarize and analyze plaintiff's injuries, damages and our exposure in the case. The evaluation should include the worse-case scenario as well as settlement potential and the availability of ADR. If you believe it is a case of liability, efforts should focus on resolving the case without incurring unnecessary discovery costs.
- d. Counsel's preliminary strategy for handling the case, including assessment of any potential dispositive law and motion, the potential success and the discovery or development of evidence which must be undertaken prior to bringing such motions. Counsel should analyze what discovery is anticipated to properly put the case into perspective for proper evaluation.
- e. Additional field investigations should be formally requested; **counsel is not authorized to assign field investigation without prior approval.**
- f. Counsel must submit a litigation budget on the PARSAC form (attached). The proposed budget shall specify the means by which litigation is to be advanced. The budget should encompass the activity and objectives reasonably anticipated given the current facts and case analysis.

The preliminary report must be reviewed and approved by the Litigation Manager or PARSAC prior to proceeding with any discovery. Federal or State Court actions requiring response within 20 or 30 days, respectively, may be answered prior to approval of the preliminary report to avoid default judgments.

### II. Mandatory Status Report

Counsel must submit a status report every 90 days to include new developments only and including any budget updates. Routine submission of repetitive, non-substantive status reports is not acceptable. The status report should include the following:

- a. The ongoing strategy for defense or resolution of the case.
- b. A description of planned discovery with a timetable for completion.
- c. A brief synopsis of the discovery completed since the last report.

- d. A brief and concise summary of the deposition testimony, including the attorney's opinion on the appearance of witnesses and what effect the deponents' testimony will have on the case. Lengthy deposition summaries are not desirable or needed.
- e. Court dates, including but not limited to, mandatory settlement conferences, trial setting conferences, arbitration, trial dates, hearings on discovery, etc.
- f. New settlement demands.
- g. An assessment of the probability of success for each action identified or recommended.

### III. Secondary Budget

After 120 days, but no later than 180 days, counsel must submit an updated litigation budget on the PARSAC form (attached). The updated budget shall reflect the actual activity completed to date, as well as reasonably anticipate necessary actions through the anticipated conclusion. Additional budget updates may be required upon request, which should be provided within 30 days.

### IV. Trial Strategy Report

No later than 30 days before trial, the handling attorney must submit a Trial Strategy Report which shall include:

- a. An assessment of the defendant entity's liability exposure.
- b. An assessment of the plaintiff's damages.
- c. An assessment of the legal defenses and probability of prevailing, including significant arguments of each party and expected counter arguments.
- d. Unique characteristics of the jurisdiction, presiding judge and opposing counsel.
- e. The verdict value assuming full liability.
- f. Settlement value, considering defendant's liability exposure and chances of prevailing.
- g. Status of settlement discussions.

### C. **EXPERTS**

Selection of experts can be critical to the outcome of the case. If you plan to use an outside expert for trial, the name and credentials of the proposed expert must first be submitted to PARSAC for approval.

PARSAC is not adverse to retention of experts as consultants and may encourage the use of experts with widely divergent points of view (on a retainer) on complex cases. Retention of experts should be closely coordinated with PARSAC.

PARSAC requires a copy of all billings (separately) for the use of expert witnesses, including an hourly breakdown of services.

#### **D. SETTLEMENT AUTHORITY**

Defense counsel has no authority to settle cases without prior authorization from PARSAC. Authority is granted by PARSAC only after conversation with the member entity and/or Board of Directors.

#### **E. BILLING**

All charges must be in accordance with the agreed hourly rate. Bills should reflect the amount of time expended in increments not larger than 1/10<sup>th</sup> of one hour. PARSAC will not pay for “blocked entries,” *i.e.* a line item with a single time being charged for multiple activities. The amount of time spent in each activity must be separately indicated.

Each bill submitted by defense counsel should include:

- a. The name of the defendant entity;
- b. The date the bill was prepared;
- c. Defense counsel’s tax identification number;
- d. A cumulative total of the billings on the case to date;
- e. A description of legal services provided;
- f. The name of the attorney or paralegal, etc. performing the service and his/her respective billing rate.
- g. A breakdown of billing costs, including the firm’s internal costs for such items as photocopying and long-distance facsimiles.

Interoffice conferring among attorneys will not be compensable unless it is a necessary strategy meeting related to some significant legal event (*i.e.* upcoming trial). We will not pay for duplicated entries for reviewing and analyzing documentation and legal research.

Westlaw or Lexis charges should not be written-up. A copy of the Westlaw or Lexis bill should be provided to document the charges.

All attorney fee bills should be submitted on at least a monthly basis or sooner if the bill is in excess of \$10,000.