

# The 2024 CLM Defense Counsel Study Report of Findings

*A discussion with industry defense attorneys  
about the State of the Union in  
insurance defense litigation.*

April 2024

Conducted by Suite 200 Solutions

Commissioned by The Claims and Litigation Management Alliance



2024 CLM Defense Counsel Study  
Report of Findings  
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## Introduction

### About the 2024 Defense Counsel Study

This examination of the “State of the Union” for insurance defense counsel was commissioned by the CLM and performed by Suite 200 Solutions. It follows on the heels of the CLM’s 2023 Litigation Management Study that surveyed senior claims and litigation executives, and is a follow-up to the CLM’s 2020 Defense Counsel Study, which was the first defense counsel study commissioned by the CLM.

A copy of all prior study reports, and this Report, can be downloaded from [www.suite200solutions.com/studies](http://www.suite200solutions.com/studies).

This is the CLM’s sixth industry-wide litigation management study. The primary purpose of these initiatives is to provide information and data that inform the insurance defense industry, facilitate improved communication and working relationships between defense attorneys and litigation executives, and generally advance our industry’s dialogue and conversation.

Study participation was anonymous, and all information provided by participants is strictly confidential. In many cases, we have drawn comparisons to the results of prior studies (both of defense counsel and buyers of legal services). However, as with all our studies, we view the information outlined to be a point-in-time snapshot of the industry. Given the relatively confined data set, we caution against drawing too many statistical conclusions or then-to-now trends.

We encourage readers to use this Report for the primary purpose for which it was intended — as a framework and foundation on which all members of the litigation management industry – including claims organizations, litigation vendors, and law firms — can collaborate and exchange ideas about how to promote the highest standards and best practices in our industry.

### Thank You to The Participants

We thank each of the 375 defense attorneys who responded to the Study’s survey. Without their participation, this Study could not have been possible. The time they invested in participating in this project benefits law firms and buyers of legal services alike, both within and outside of the CLM Community.

## Thank You to Our Sponsors

We also thank each of the sponsors who made this Study possible. Without their generous underwriting support, the effort and time required to perform a Study like this would not have been possible.

Our sponsors recognize the importance of understanding emerging trends in the litigation management field, and each is a thought-leader in their respective litigation-oriented fields. This Study's sponsors are listed below.

**ClaimDeck**  
**Consilio**  
**Cruser Mitchell**  
**Eckenrode Maupin**  
**Hermes Law**

**McAngus Goudelock & Courie**  
**Rebar | Kelly**  
**SigmaSight**  
**Wilson Elser**

**More information about each sponsor, and links to their organizations, can be found at the end of this Report.**

## Thank You to Our Steering Committee Members

It was important to us that this initiative be an examination of the industry, by the industry. As such, survey questions were developed to a significant degree by a wonderful Steering Committee.

The Steering Committee's members represent a diverse group of law firms and serve a diverse range of industry clients. Their help was invaluable in designing a survey that promotes dialogue and meaningful discussion across the industry.

The dedication of these attorneys reflects their commitment to the industry and speaks to their interest in promoting and furthering the highest standards of claims and litigation management. We thank them very much.

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Our Steering Committee members were:

**Steering Committee Chair**

**Doug Wyllly**

Advisor, Litigation Management  
Suite 200 Solutions

**Law Firm Members**

**Christopher Fusco**

Callahan & Fusco  
Managing Partner

**Peter Hitson**

Carlton Fields  
Director of Legal Project  
and Practice Management

**James Foster**

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Partner

**Gene Kissane**

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**Daniel Costello**

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Founding Partner

**Bill Mitchell**

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**Tim Graves**

Former CEO, Daugherty Lordan  
Former National Managing Partner,  
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**J. Thaddeus Eckenrode**

Eckenrode Maupin  
Managing Officer & Sr. Trial Attorney

**Dan Brunson**

Freeman Mathis & Gary  
Partner, Director of Legal Operations

**Tom Segalla**

Goldberg Segalla  
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**Elaine Fresch**

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**Dwayne Hermes**

Hermes Law  
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**Dan Boho**

Hinshaw & Culbertson  
National Litigation Practice Group Leader

**Bob Kopka**

Kopka Pinkus Dolin  
Litigation Partner and Law Firm Leader

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**Greg Katz**

**Lewis Brisbois**

National Managing Partner

**Marty Schwartzberg**

Marshall Dennehey Warner Coleman & Goggin  
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**Rusty Goudelock**

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**Cathleen Kelly Rebar**

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**Gus Sara**

White and Williams  
Partner

**Ben Heller**

Wilson Elser  
Partner

**Daniel A. Berman**

Wood, Smith, Henning & Berman  
Executive Chairman and Co-Founder

**Litigation Executive Members**

We were also very honored to have on the Steering Committee five well-recognized litigation management executives, each of whom made contributions that assured that Study findings would be relevant to their peers.

**Matthew Morrison**

Vice President, Specialty Claims & Loss Control  
American Family Insurance Claims Services  
(AFICS)

**Kate Dombrowski**

VP, Claims General Counsel  
Selective Insurance

**Ronald Morrison**

Divisional Senior Vice President  
Great American Insurance

**Daniel Winkler**

Director, Claims Legal Support  
Westfield Insurance

**Michael Zeoli**

VP, Counsel and Litigation Management  
IAT Insurance Group



## Executive Summary

### Foreword

We conducted the first CLM Defense Counsel Study in late 2019 and issued our report of findings in the Spring of 2020. Since that time a lot has happened, to say the least. The global pandemic we all experienced changed many things. It had a profound impact on how members of our litigation community work, and how they think and feel about their work. Specific to this report, it affected how litigation is practiced, how disputes are resolved, and the timing and cost of both.

Three years later we conducted and released the CLM's 2023 Litigation Management Study, which examined the thoughts and feelings of claim and litigation executives. We therefore have two points of comparison against which to view the findings of this Report and its examination of insurance litigation defense counsel.

The purpose of these CLM studies is to produce topics and ideas for our industry — specifically providers of legal services, the executives who hire them, and the service and technology firms that support both — to discuss and dialogue about. This is premised on the belief that more discussion and more dialogue help advance our industry, strengthen relationships, and become more effective together. Our industry is unique in that if attorneys and their claim organization principals are not working well together, both constituencies suffer and under-perform.

This Study covered 90 different topics, which is a lot to digest. We have woven together these findings into a narrative that gives both law firm leaders and litigation executives insight into the topics that we view to be most pressing. At the same time, we encourage all readers of this Report to form their own opinions as to what is most pressing, as they digest specific findings and as they observe correlations (or a lack of correlations) between data points.

**Taylor Smith, President, Suite 200 Solutions**

### High-Level Observations

In our view, the findings in this Study suggest that our industry is at an inflection point. There are data points discussed below that we believe will be of concern for law firm and litigation executives alike. These findings, in our assessment, should be seen as a call to action for the industry's leaders to step forward, to work together, and to build frameworks that enable both constituencies to address these industry challenges together. We should view them as areas of opportunity.

The strength of relationships between insurance litigation defense counsel and their claim and litigation executive principals has a natural ebb and flow. The concept of insurance defense legal services becoming overly commoditized is not new — law review articles addressing the topic can be found as far back as 2006. And, over the ten years we have conducted these industry surveys, we have seen data points at different times that suggest both a strengthening and weakening of these relationships.

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Yet, for several reasons, these Study results feel different. In our view, there is a confluence of industry pressures that should make us all pay attention and figure out ways to make things better. Here are five observations we made as we reviewed the survey results.

**Talent Shortage:** Even as defense firms are consolidating (and they are), they are struggling to attract and retain good attorneys.

Almost half (45 percent) of the survey respondents said that their caseloads are higher than three years ago. Sixty-five percent report that they do not consider their firms to be “fully staffed” with attorneys.

More than 90 percent of attorneys say it is more difficult to attract talent. Two thirds say it is “much, much more difficult.” More than half (56 percent) report that their firms have more turnover when compared to three years ago. Finding new attorneys was identified as the second most important challenge to be faced in the next five years.

We found several of the reasons cited for a challenging attorney hiring environment and higher turnover rates to be concerning. The second most popular reason cited was, “attorneys dislike dealing with carriers and their billing and litigation guidelines”. One of the more cited friction points was that claim organizations fail to appreciate these staffing challenges and insist on only senior attorneys performing the work. Demand may be at odds with supply.

Certainly, talent acquisition has been and is challenging for claims organizations also. This may be evidenced in attorneys’ perception of a diminishing expertise level on the part of the claim professionals they work with. Thirty-six percent said that overall expertise has gone down in the last three years. Two thirds (66 percent) said that they exclusively drive litigation strategy on files; in 2020, 55 percent said this. The number who say that case strategy is set in a “harmonious and symbiotic” way with the claims professional dropped from 42 percent in 2020 to 30 percent now.

The results would appear to suggest that fewer, more understaffed, law firms, with higher attorney caseloads, are driving more case strategy on their own, with less collaboration with claim professionals. These are trends that should concern both industry segments.

**Economic Pressures and Pain Points:** Attorneys appear to be feeling a lot of pain when it comes to how they are being compensated.

The average reported post-appeal invoice adjustment rate jumped to 9.5 percent in this Study. This is an increase of 2.5 points (a 36 percent increase) over what was reported in 2020. These are also numbers that are substantially higher than what litigation executives reported taking in adjustments in 2023 and 2019; nonetheless, even if wrong, they speak to a perception that shows in other ways.

Payment issues and adjustments were the top listed “recurring friction point” for attorneys with their insurance company clients. Rate issues were second.

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Attorneys seem to be struggling more with, or at least improving less at, guideline compliance. The percentage who said that they are “doing better” when it comes to non-billing guidelines dropped from 60 percent in 2020 to 44 percent now. With regards to billing guidelines, the decrease was from 74 percent in 2020 to 57 percent now. These are big drops.

The average and median “Pain Index” scores for both dealing with invoices and waiting to be paid rose significantly when compared to the 2020 Study. The median pain index score for invoice adjustments rose from 5.0 to 8.6. Regarding invoice adjustments, the most frequently given index score by non-associates was 10 out of 10, which is remarkable. The average pain index score related to payment duration (waiting for payment) went up as well.

Issues related to invoice adjustment may be perceived as so “painful” because, for 78 percent of attorneys, the adjustments seem “subjective and/or inconsistent.” While this score is essentially unchanged from 2020, the percentage of attorneys who find adjustments to be “objective” dropped from 18 percent in 2020 to 8 percent now. There does not appear to be more clarity in this process for the attorneys.

Low hourly rate was identified as the number one top challenge for law firms over the next five years. More aggressive invoice audit and adjustment was identified as the third top challenge over the next five years.

While these numbers all suggest a worsening tension when it comes to compensation, equally notable to us were the open-text comments, which focused quite significantly on rates, invoice adjustment, and other payment-related issues. Those comments can be found in the Appendix below. In our view, a continual conversation about compensation has the potential to distract from more meaningful areas of collaboration as we try to move the industry forward.

**Relationship Assessments:** In the survey’s relationship assessment scores, two things were notable. First, attorneys seem less confident about their client relationships than previously; and second, they continue to score relationship attributes more positively than their litigation executive counterparts.

The percentage of attorneys who describe the strength of their client relationships as being “stronger” dropped from 61 percent in 2020 to just over half (52 percent) now. This is a number in line with what litigation executive said in 2023 (54 percent).

The percentage of those who feel they are “doing better” when it comes to “understanding client needs” was also 52 percent, dramatically down from the 78 percent who said this in 2020. Notwithstanding that big drop, 52 percent is still much higher than the 38 percent of litigation executives who said in 2023 that firms are doing better in this regard.

“Clients don’t seem to value my work” scored fifth overall on the list of top five recurring friction points for attorneys with their insurance company clients. For non-associates, it was the fourth top friction

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point. We view this concern as notable, given that we are, collectively, an industry that must work synergistically to combat increasing per-file costs, the pressures of social inflation, nuclear verdict risk, and other emerging influences.

Attorneys continue to believe that they are quite good at their ability to describe their firm in a way that distinguishes them from other firms. They rated their ability to do this as an 81 out 100, a little higher than the score of 79 they provided in 2020. In 2023, litigation executives ranked firms' ability to do this at 48 out of 100. This feels a little like two groups speaking past one another.

**Career Satisfaction:** Despite all these challenges (talent acquisition, compensation, and overall relationship issues), insurance defense attorneys might be the happiest people in the world, with exceptional career satisfaction rates. High career satisfaction would be a positive in terms of attracting new talent and retaining current talent – and would bode well for everyone's future – including claims organizations.

However, the survey scores seem to suggest somewhat lukewarm satisfaction rates. The average score given to "how would you describe your overall career satisfaction?" was 63 out 100. In response to "how likely would you be to recommend to a graduating law student that they join an insurance defense firm?" the score was 53 out 100. We have no prior scores to compare these against.

In an alternative world, where talented attorneys are in over-supply, litigation executives would probably not need to worry about attorney career satisfaction rates, or whether graduating law students will be enticed to come work for insurance defense firms. But, in a world where the firms themselves are understaffed, and where good talent is hard to find, this becomes a problem for both industry segments.

**Addressing Future Technology Pressures:** Our fifth area of perceived confluence is an amalgamation of several different industry pressures. It is driven by the general industry challenges of social inflation, nuclear verdicts, legal system abuse, litigation funding, and the general industry sense that not only are legal fees and expenses increasing, but that verdict and settlement values are increasing as well.

The amount of financial investment in artificial intelligence (AI) being made on the plaintiff bar side is enormous right now, with several highly visible and notable examples. These AI tools are designed not only to pick the right cases and put them in the most favorable venues, but also to maximize case value, through both AI-generated demand packages and highly effective "storytelling" software. If we thought there were upward pressures to overall case valuations before, we can anticipate even more as these technologies are brought to bear.

We asked about the use of artificial intelligence in this survey. Thirty percent of respondents said they did not know whether their firm uses any AI tools. Sixty-three percent said that their firm does not use AI tools. Only 6 percent responded in the affirmative. In a related question, 36 percent said they did not know whether their firm has policies about the use of AI; another 35 percent said their firms do not

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have any policy. Only 8 percent said that they work with claim organization clients who are using AI tools to value litigated claims.

Of course, for the defense bar (and claims organizations) to effectively use AI, it will require as much structured data as possible. Foundationally, the side with the most structured data (or the ability to create structured data) will have a significant advantage in a new world influenced significantly by AI pressures.

We noted that 94 percent of all communications from defense counsel to claims departments comes in the form of emails, Word documents, and PDFs. Only three (3) percent reported using data fields to convey information to their claim counter parts. Essentially one in six attorneys (16 percent) reported that their firm does not use a case management system at all. As a good friend said to me, “there is not a lot of structured data on the F drive.”

With the speed of AI advancements moving at a breathtaking pace, we view it to be an industry imperative that defense firms not fall behind the plaintiff bar in this area. At the end of the day, indemnity value, which drives roughly 80 percent of total case cost, is the area that defense counsel and their claims organization clients must work together to address. When even a mediocre personal injury attorney, fully armed with AI, can write and act like a Harvard Law School graduate, we need to make sure that defense teams are similarly armed.

None of these issues — a talent crisis, compensation hurdles, overall relationship issues, career satisfaction challenges, and new emerging technology threats — are easy to solve. But they are solvable problems; and a weaker, unhappier, defense bar makes it harder, not easier, for our industry to respond.

We hope you enjoy this Report and its findings, and we look forward to the discussion and the dialogue that we trust it will facilitate.

## Key Findings

Some of the key findings from the 2024 CLM Defense Counsel Study include the following:

### Study Demographics

- **Exactly 375 defense attorneys took this 91-question survey.** Ten percent were Managing Partners. Forty percent self-identified as Partners in their firm. Twenty-one percent were Equity Shareholders. Broadly speaking, we viewed 70 percent of respondents to be in leadership roles. Associates made up 26 percent of the responses.

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- **Participants have been practicing law for an average of 20 years.** The 2020 average was 22. The average years of practice for associates was eight years, the same as 2020. The average for non-associates was 19 years. The 2020 average was 24.

### **Workloads and Staffing**

- **Forty-five percent reported higher caseloads than three years ago.** Twenty-two percent said caseloads were smaller.
- **Sixty-five percent reported that their firms are not fully staffed with attorneys.** Seventy percent of non-associates reported this.
- **Ninety-one percent reported difficulty in attracting new attorney talent to their firms.** Two thirds (66 percent) said that it is “much, much more difficult” to attract new attorney talent to their firms, compared to three years ago. Another 25 percent said it is a “little more difficult.”
- **More than half (56 percent) reported that their firms have more turnover than three years ago.**

### **Industry Consolidation**

- **Sixty-one percent of participants reported that their firms have more attorneys now than three years ago.** Only 19 percent said they have fewer. In 2020 66 percent reported more attorneys. Firms seem to continue to grow.
- **Slightly more than half (51 percent) said that their firms service a larger number of states than three years ago.** Only 6 percent said fewer.
- **About four in 10 (41 percent) said that their firm had acquired another law firm in the last three years.** Another 7 percent said that their firm had been acquired by another.

### **Client Relationships**

- **Just over half (52 percent) describe the strength of their client relationships as “stronger” than three years ago.** This number matches the sentiment of litigation executives in 2023 (54 percent) but is down from the 61 percent defense counsel reported in 2020.
- **Just over half (52 percent) feel that they are “doing better” when it comes to “understanding client needs” when compared to three years ago.** This number is dramatically lower than the 78 percent who felt this way in 2020, but still much higher than litigation executives reported in

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2023 (at 38 percent).

- **Slightly more respondents (62 percent) believe they are “doing better” when it comes to “creating value for your insurance clients;** however, this number is much lower than the 79 percent who felt this way in 2020. Both numbers are dramatically higher than the 30 percent of litigation executives who felt this way just a year ago (2023).

### **Billing and Pain Points**

- **The average post-appeal invoice adjustment rate reported by participants was 9.5 percent.** This was 2.5 percent higher than what was reported in 2020 (and an increase of 36 percent!) It is also significantly higher than what litigation executives said they are taking in adjustments in 2023 and 2019, reported at 5 percent and 6 percent, respectively.
- **Almost 8 of 10 respondents (78 percent) say that they find invoice adjustments to be subjective and/or inconsistent.** This figure is essentially unchanged from the 76 percent who felt this way in 2020. The percentage who finds adjustments to be objective has dropped from 18 percent in 2020 to 8 percent in 2024.
- **The average “pain” score for submitting invoices and dealing with invoice adjustments was an 8 out of 10. The median ranking was 8.6 out of 10. The median score for non-associates was a 10 out of 10.** These figures are dramatically increased over the average and median scores given in 2020, when they were 5.6 and 5.0 out of 10, respectively.
- **The average “pain” score for waiting to be paid was 6.7 out of 10. The median score was 7.0 out of 10.** Both figures are significantly higher than the average and median scores given in 2020, when they were 5.6 and 5.3 out of 10, respectively.

### **Client Assessments**

- **Overall, 36 percent of all respondents (and 40 percent of non-associates) reported that the expertise of the claims professionals they work with has gone down, when compared to three years ago.** In 2020, 27 percent of attorneys said this.
- **When asked who the primary driver of litigation strategy on most files is, 66 percent said that they are, and not the claims professional.** This is a 20 percent increase over 2020, when 55 percent said this. The number who say that case strategy is set in a “harmonious and symbiotic” way with the claims professional dropped to 30 percent, from 42 percent in 2020.
- **Participants ranked the “effectiveness” of the claims professional they work, when it comes to claims professionals evaluating and negotiating legal budgets, with an average score of 4 out**

10. The median score was 2.9 out of 10.

- Participants ranked the ability of claim professionals to engage in collaborative litigation planning at much higher levels, with an average score of 4.6 out of 7 (or 6.6 out of 10).
- The percentage of attorneys who categorize the performance data provided to them by clients decreased from 2020. Thirty-eight percent of respondents classified this information as “pretty insightful and we value it,” compared to 47 percent who said this in 2020. This is a decrease of 19 percent.

#### Per-File Costs and Philosophical Concepts

- Sixty percent of participants believe that per-file fees and costs have increased when compared to three years ago. This percentage is double the 29 percent who said this in 2020. However, both percentages are dwarfed by the percentage of litigation executives who said this in 2023, at 78 percent.
- The percentage of attorneys who reported having taken formal courses, classes, or certifications in (the science of) negotiation, was 8 percent overall, and 7 percent for non-associates.
- When it comes to philosophies related to the timing of initial offers, the third most popular response for non-associates, and the first most popular response for associates, was that “the defense should always wait for plaintiff’s counsel to make a demand before making an offer”. For associates, the third most popular believe was that “The defense will end up paying too much indemnity if it makes an offer before a reasonable demand from the plaintiff.”
- The number of participants who feel that most litigated claims settle later in the process than is necessary (63 percent) is identical to the score given in 2020. Litigation executives are more likely to feel this way; 87 percent of them said this in 2023 and 80 percent said this in 2019.
- Similarly, the 50 percent who believe that “spending more money on the defense of a lawsuit is likely to improve the indemnity outcome in that lawsuit,” is essentially unchanged from the 55 percent who said this in 2020. However, compare that to the responses of litigation executives in 2023, 2019, and 2015, when only 19, 21, and 16 percent, respectively, said they felt that way.
- More than half of participants (54 percent) said that it is their belief that when a client decides to do business with their firm, they are primarily hiring the firm (rather than the individual attorney). This is the highest percentage given to this question that we have seen. In fact, 68



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percent of associates feel this way. Only 37 percent of attorneys said this 2020. Only 26, 16, and 16 percent of litigation executives felt this way, respectively, in 2023, 2019, and 2015.

- **The percentage of respondents who attribute good resolution results more to process than individual skill dropped to 23 percent, from 28 percent in 2020. Seventy-one percent attributed good resolution to skills that can be taught and learned.** Litigation executives are more likely than attorneys to attribute good resolution results to process; 32 percent said this in 2023 and 43 percent said this in 2019.

### **Describing Law Firm Value**

- **Lawyers remain bullish on their ability to describe their own firm's value in a way that distinguishes it from other firms. Participants ranked their firm's ability to do this as a 5.7 out of 7, which equates to an 81 out of 100.** In 2020, attorneys provided a score of 79 out of 100. Both self-assessments can be compared against the scoring provided by litigation executives in 2023, which was 48 out of 100.

### **Guideline Compliance and Metrics**

- **A smaller percentage of participants (44 percent) reported "doing better" when it comes to complying with non-billing guidelines. In 2020, 60 percent felt they were doing better.** Litigation executives are not so convinced, giving scores of 25 percent in 2023 and 44 percent in 2019.
- **Similarly, a smaller percentage of attorneys (57 percent) feel they are "doing better" when it comes to complying with billing guidelines; in 2020 74 percent felt they were "doing better."** In 2023, only 36 percent of litigation executives felt that firms were "doing better" at this.
- **Attorneys don't ask clients for performance data their clients may have about them very often. They scored this as 30 out of 100, an identical score to 2020.** Eighty-six percent of litigation executives said in 2023 that firms do not ask for such information enough.
- **Attorneys remain skeptical that clients will share performance information with them if asked. They scored this as a 50 out of 100, essentially unchanged from their 54 out 100 score in 2020.**

### **Career Satisfaction, Talent Acquisition, and the Future**

- **Two thirds (66 percent) of respondents describe their law firm environment as more competitive, when compared to three years ago.** This percentage is less than the 85 percent who felt this way in 2020, and more in line with the 61 percent of litigation executives who said this a year ago (2023). Sixty-nine percent identified the primary source of competition as being the “same law firms” they have been competing with.
- **The average score to the question of “how would you describe your overall career satisfaction?” was a 63 out of 100.**
- **The average score to the question of “how likely would you be to recommend to a graduating law student that they join an insurance defense firm?” was 53 out 100.**
- **The top three challenges to retaining attorneys were:**
  - 1) Price/cost/salary competition with other firms
  - 2) Attorneys dislike dealing with carriers and their billing and litigation guidelines
  - 3) Fewer attorneys want to stay in litigation
- **The top three challenges for the future were identified as:**
  - 1) Low rates
  - 2) Hiring and retention of new attorneys
  - 3) More aggressive bill adjustment and audit

## **About The Attorneys**

### **Role and Tenure**

Exactly 375 attorneys participated in this Study. Participants self-identified as being within one or more of 12 primary roles within their firms. Respondents were allowed to self-identify as holding multiple roles (i.e., they could be both a partner and an executive committee member).

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Self-Identified Role	All Respondents %
<b>Partner</b>	<b>37</b>
<b>Equity Shareholder</b>	<b>21</b>
<b>Executive Committee</b>	<b>5</b>
<b>Managing Partner</b>	<b>10</b>
<b>Associate</b>	<b>26</b>

Of the 12 primary roles we selected five and have indicated the percentage of participants who put themselves into those categories.

We further aggregated these roles into two major buckets, which we labeled as “Leadership” and “Non-leadership.” Broadly stated, participants fell into these two categories as follows:

- **Leadership: 68 percent**
- **Non-Leadership: 32 percent**

Further, as you can see from the illustration to the left, 26 percent of the respondents were associates.

Throughout this Report we have compared answers from associates and non-associates to determine if opinions on different topics differ between those two groups, and if so, by how much.

Tenure	All	Non-Associates	Associates
<b>Number of years practicing law:</b>	<b>20</b>	<b>24</b>	<b>8</b>
<b>Number of years doing “insurance defense work”:</b>	<b>17</b>	<b>21</b>	<b>6</b>

As a collective group, the average number of years in the practice of law across all respondents was 20. For associates the average was eight years. For non-associates, the average was 24 years.

Collectively, the average number of years in insurance defense work was 17 years. For associates the average was six years. For non-associates it was 21 years.

Understanding how we defined insurance defense work is important. In our instructions to participants, we defined it as follows:

- a) representing an insurance carrier’s policyholder.*
- b) representing a self-insured organization in liability-centric or workers compensation litigation), or*
- c) representing an insurance carrier in a non-coverage first-party suit.*

*We explicitly would like you to exclude coverage analysis work and transactional business work for insurance companies, TPAs, and self-insured entities.*

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**Current Practice Focus**

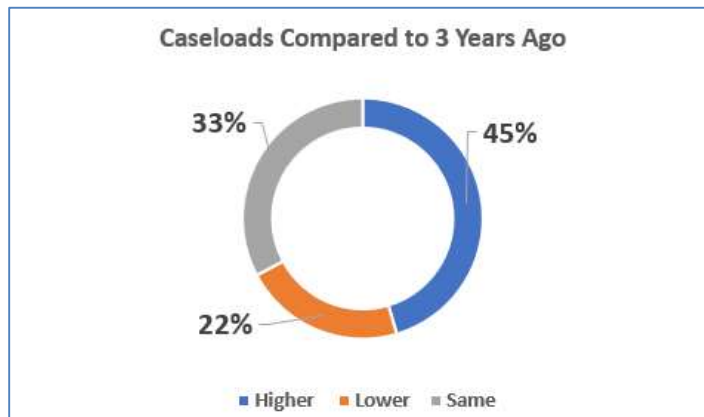
Study participants work predominantly in the insurance arena. We defined insurance defense as representing an insurance carrier’s policyholder or a self-insured organization. We defined insurance coverage as providing insurance coverage opinions or coverage defense for insurance carriers. Almost all of the respondents’ caseloads meet these criteria. Additionally, they reported that almost the entirety of their firm’s focus falls into these areas as well (82 to 90 percent).

	All	Non-Associates	Associates
<b>Percentage of your personal practice today that you would consider to be insurance defense work – AVERAGE</b>	<b>88</b>	<b>87</b>	<b>93</b>
<b>Percentage of your personal practice today that you would consider to be “insurance defense work – MEDIAN</b>	<b>99</b>	<b>97</b>	<b>100</b>

**Active Caseloads**

We defined caseload rather broadly in the question, and attorneys also define caseloads differently. As such we recommend referring to the median results more than the averages, since there were some outlier responses that drove the averages higher.

Active Caseloads	All	Non-Associates	Associates
<b>Responses Average</b>	<b>91</b>	<b>108</b>	<b>40</b>
<b>Responses Median</b>	<b>40</b>	<b>50</b>	<b>30</b>



More interesting than the actual caseload number, is whether current caseloads differ from three years ago. Almost half (45 percent) reported higher caseloads. One out of five (22 percent) said caseloads were lower.

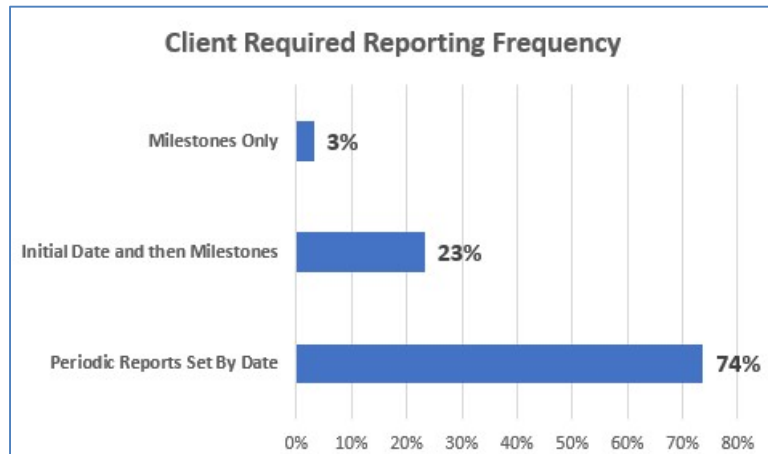
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### Client-Desired Reporting Frequency

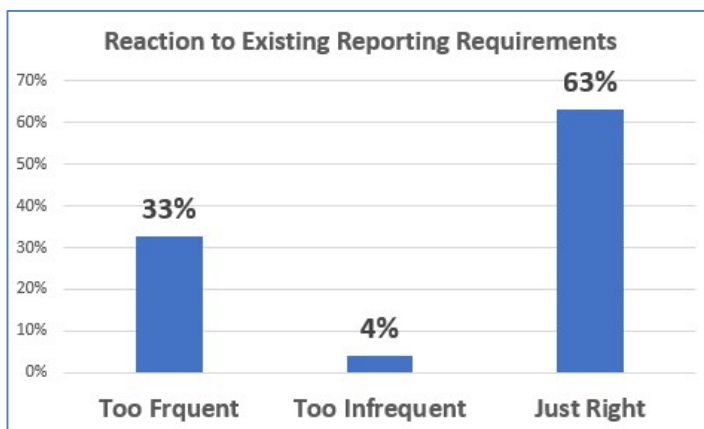
Since the exchange of information between defense attorneys and their claims professional counterparts is critically important, we were interested in the cadence of client-desired frequency for providing updates and status reports.

We asked respondents to select one of the following general statements about reporting frequency and to share which best describes what “most” of their clients require:

- 1. Periodic Reports Set by Date:** An initial status update at a certain number of days from assignment, followed by periodic status reports at a certain number of days (i.e., for example, every 90 or 120 days);
- 2. Initial Date and then Milestones:** An initial status report at a certain number of days from assignment, followed by status reports only as case developments warrant it; or
- 3. Milestones Only:** From the beginning of the assignment, status reports are required only as case developments warrant it.



Seventy-five percent identified that most clients continue to require a frequency set by periodic time intervals or dates.



About one fourth reported that after an initial date-driven report, subsequent reports should be milestone driven.

Most respondents feel that the reporting requirements are just right. Almost none feel that there should be more reporting.

However, for one third of the participants (33 percent), existing reporting requirements are too frequent.

## Collaborative vs. Unilateral Reporting

We were also interested in whether clients require a verbal discussion about report contents prior to the report being issued and submitted. We assigned two terms, collaborative and unilateral reporting, and defined them as follows:

- **Unilateral reporting**— My clients allow me to send a status update without any prior discussion with the claims professional
- **Collaborative reporting** – My clients require me to speak with the claims professional first, before preparing litigation recommendations and status updates.

We found some wide variances in the percentages of the responses and, as with other answers that were so widely scattered, have provided the median percentages as well.

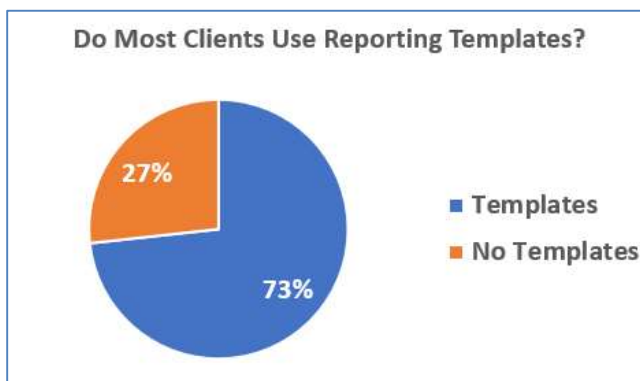
Most Common Reporting Method	Unilateral Reporting	Collaborative Reporting
Average	84%	18%
Median	90%	10%

The answers suggested that unilateral reporting, without a requirement to verbally discuss recommendations, remains the most common practice.

That said, it was clear from the variety of the percentages reported, that some attorneys work almost exclusively with clients who require a verbal discussion before reports are finalized and submitted.

## Use of Reporting Templates

We asked whether most clients use a pre-defined reporting template that identifies what types of questions and issues should be answered or addressed (for different types of status reports).



Roughly three quarters (73 percent) said that their clients use such templates. Slightly more than one quarter (27 percent) said that the use of templates is more the exception than the rule.

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### How Reports Are Transmitted

Because the issue of unstructured litigation data remains a challenge to many claims organizations, we were curious about the method of communication being used to convey information to claims organizations.

We offered respondents multiple methods and asked them to identify the percentage of clients preferring a specific method.

Email, PDF, and Word documents comprised the top three responses. Only 3 percent reported data field completion as a method for conveying update and status information.

Method	Average (%)
Email	34
PDF	33
Word	30
Data Fields	3
Physical Mail	0
Other	1

### Client Use of AI to Predict Litigation Value

We asked whether respondents were aware of clients using AI-driven analysis of historical litigation outcome data to predict or project what litigated case values are most likely to be.

Eight percent said that they had clients using such tools. The remaining 92 percent either did not know or had not been exposed to that type of software.

### Minimum Billable Increments

In our 2019 Litigation Management Study roughly 8 percent of participating executives said they now require counsel to bill in .05 (three minute) increments. In our 2020 Defense Counsel Study, 19 percent of the 400 attorneys who responded said they were being asked to invoice in .05 increments.

Lowest Billable Increment	All	Non-Associates	Associates
0.25 (15 min)	1%	1%	0%
0.1 (6 min)	94%	97%	85%
0.05 (3 min)	5%	1%	15%

That number dropped significantly in this Study. While 15 percent of associates reported having at least one client that requires billing in three-minute increments, only 1 percent of non-associates reported this, resulting in an aggregate of 5 percent reporting at least one client requiring three-minute billing.

Based on this myriad of data points, we do not perceive that any trend of requiring lower billable increments is growing.

When asked about the lowest billable increment that most of their clients ask them to use, roughly 22 percent said that they feel it is too low to adequately reflect their work. The majority, 77 percent, said that it feels “just right.”

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**Files that Proceed to Trial**

We defined trial as a case that begins jury selection or, in the case of a bench trial, where opening arguments are started, and asked participants to identify what percentage of their files reach that stage. The aggregate average response was 7 percent. The median response was 5 percent.

<b>Percentage of Cases That Proceed to Trial</b>	<b>This Study</b>	<b>2023 Study</b>	<b>2019 Study</b>
<b>Average</b>	<b>6.8%</b>	<b>5.9%</b>	<b>3.4%</b>
<b>Median</b>	<b>5.0%</b>	<b>2.0%</b>	<b>2.0%</b>

Associates reported a greater average response to this question than non-associates. Associates said that an average of 10 percent of their files go to trial, whereas non-associates said 6 percent. The median response for all was 5 percent.

These numbers are consistent with (but slightly higher than) figures provided by litigation executives in the 2023 CLM Litigation Management Study. Those executives gave an average response of 6 percent and a median response of 2 percent. Of note, in the 2019 CLM Litigation Management Study, executives provided average and median responses of 3.4 percent and 2 percent, respectively.

**Formal Negotiation Training**

Given that such a high percentage of litigated files ultimately reach a negotiated settlement, we were curious about what percentage of attorneys have taken formal negotiation courses, classes, or certifications. The responses were notable in our view.

<b>Have Taken Formal Courses, Classes, or Certifications in Negotiation</b>	<b>All</b>	<b>Non-Associates</b>	<b>Associates</b>
<b>No</b>	<b>92%</b>	<b>93%</b>	<b>90%</b>
<b>Yes</b>	<b>8%</b>	<b>7%</b>	<b>10%</b>

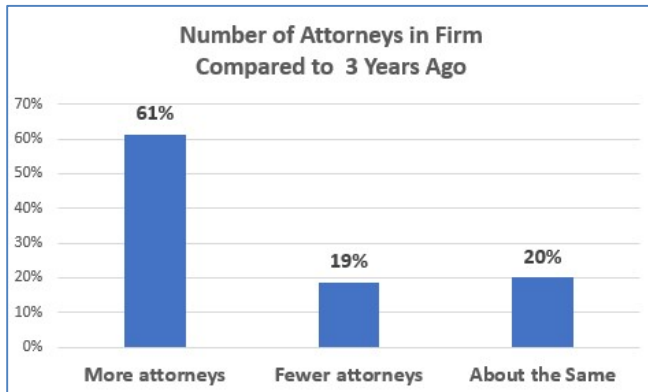
In the aggregate, only 8 percent said that they’ve received any formal negotiation training. The percentage was higher among associates, but still at only 10 percent. The remainder said that they have gained their negotiation skills from colleagues and mentors, and from watching others.



## About Law Firms

### Change in Number of Firm Attorneys

We asked participants to identify whether the number of attorneys in their firm has changed when compared to three years ago. Four percent of respondents did not know the answer to that.



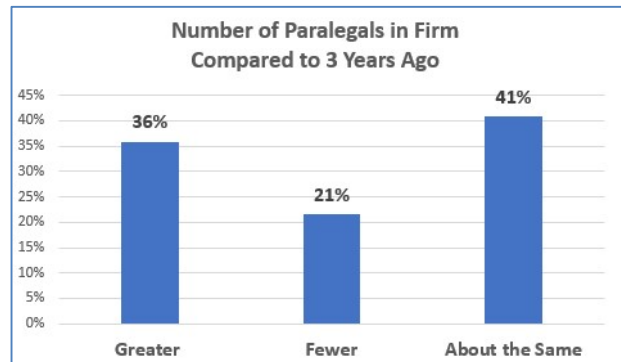
Among those that did know, roughly six of 10 (61 percent) said that there are more attorneys in their firm than there were three years ago. One fifth (19 percent) said their firm is smaller and one fifth (20 percent) reported that their firm is about the same size.

In the 2020 CLM Defense Counsel Study, 66 percent of respondents said that their firms were larger. Firms appear to continue to be growing.

### Change in Number of Firm Paralegals

We also asked whether the number of paralegals in firms has changed when compared to three years ago. Six percent of respondents did not know the answer to that.

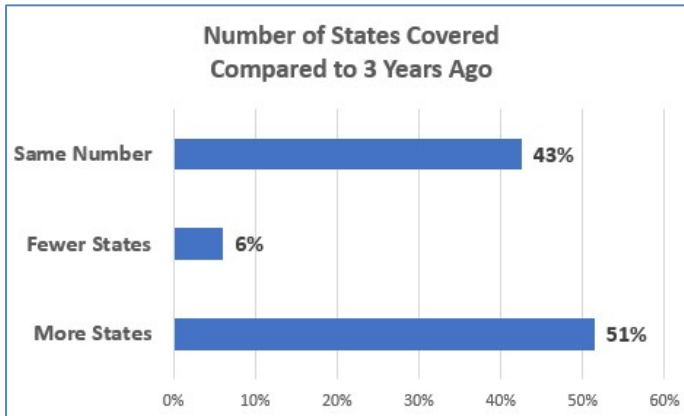
For those that did know, almost one in four (36 percent) said that there are more paralegals when compared to three years ago. Twenty-one percent said there are fewer paralegals. Forty-one percent reported that the number of paralegals is about the same.



### Service Footprint

Firms remain, for the most part, regionalized. In response to the question, “In how many states does your law firm provide insurance defense services?” participants provided an average answer of 15. However, the median response was eight.

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For most attorneys, the service footprint of their firms has grown over the last three years. Sixteen percent were unsure whether their footprint had changed in the last three years.

Among those who did know, however, more than half (51 percent) said they provide services in more states than they did three years ago. Roughly four of 10 (43 percent) said they serve the same number

of states; only 6 percent said their footprint is smaller.

### Firm Acquisition Activity

We asked two questions regarding firm acquisitions, to gain a sense for how much organizational change attorneys have experienced in the past three years. In response to the question, “In the past three years, has your firm acquired the practice(s) of another firm or firms,” 24 percent of participants did not know.

Among those who did know, 41 percent answered affirmatively. An additional 7 percent said they were part of a firm that was acquired, or that their personal practice had been acquired. Totaled together, that suggests that almost half the attorneys (48 percent) who participated in this Study (and who knew the answer to the question) were part of firms that either acquired another firm or were acquired by other firms. That strikes us as a particularly high level of industry change and consolidation.

Acquisition Activity (Among Attys Who Knew)	Yes	No
<b>Our Firm Acquired Another</b>	<b>41%</b>	<b>59%</b>
<b>Another Firm Acquired Us</b>	<b>7%</b>	<b>93%</b>

### Approved Panel Participation

Each respondent was asked whether the number of insurance companies, TPAs, and self-insured corporations their firm is “pre-approved” to receive assignments from was more or less than three years ago. Twenty-eight percent did not know the answer to this question.

Number of Approved Panels (Among Attys Who Knew)	2024 Study	2020 Study
<b>We are on More Panels</b>	<b>71%</b>	<b>67%</b>
<b>We are on Fewer Panels</b>	<b>6%</b>	<b>4%</b>
<b>We are on the Same Number of Panels</b>	<b>23%</b>	<b>29%</b>

Among those that did know, seven of 10 (71 percent) said they are on more panels Six percent said fewer panels and about one quarter (23 percent) reported the same number of panels. These figures are like the estimates provided in the 2020 CLM Defense Counsel Study.

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### Use of Case Management Systems

We asked survey respondents whether their firm has an internal case management system, other than Microsoft Outlook. The vast majority do.

<b>Case Management Systems Other Than Microsoft Outlook (Among Attys Who Knew)</b>	
<b>Off the shelf system – purchased from a vendor</b>	<b>43%</b>
<b>Custom-built system we paid a vendor to develop and build</b>	<b>32%</b>
<b>System that we developed and built ourselves</b>	<b>9%</b>
<b>We do not have a case management system</b>	<b>16%</b>

Twelve percent of respondents did not know the answer to this question, and we removed them from the data pool. Among those who did know, roughly one in six (16 percent) said that their firm does not have a case management system.

We also asked participants to estimate the percentage of attorneys in the firm who regularly use the firm’s case management system. We limited the responses to those whose firms have a case management system. The average response was 88 percent; the median response was 100 percent.

### Systems For Tracking Due Dates

In a similar vein, we asked survey respondents what system their firm uses to comply with due dates, including client guidelines compliance due dates, as well as court and civil procedure due dates.

<b>Systems Used for Tracking Due Dates</b>	
<b>Off the shelf system – purchased from a vendor</b>	<b>26%</b>
<b>Custom-built system we paid a vendor to develop and build</b>	<b>23%</b>
<b>System that we developed and built ourselves</b>	<b>6%</b>
<b>Firm-wide manual / paper system for tracking due dates</b>	<b>1%</b>
<b>Firm-wide system using Microsoft Outlook tools</b>	<b>20%</b>
<b>Each attorney is responsible for their own due dates and may track them as they wish</b>	<b>25%</b>

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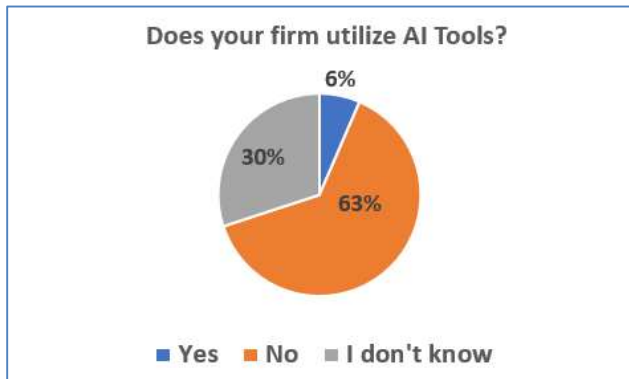
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Roughly one half (49 percent) reported using systems either purchased off the shelf or customized.

One out of five (20 percent) reported using Outlook-based tools, and a quarter (25 percent) said it is up to the individual attorney to manage.

Thirty-nine percent (almost four of 10 respondents) said they were not satisfied with their current process or system.

### Firm Use of Artificial Intelligence Tools



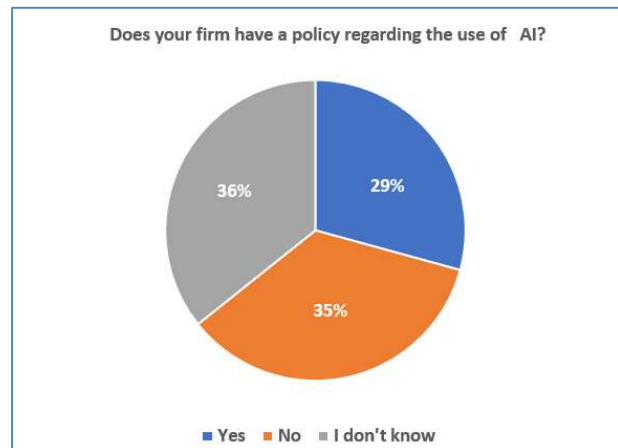
We asked whether participants' firms utilize artificial intelligence (AI) tools? Almost one third (30 percent) said that they did not know.

Sixty-three (63) percent said affirmatively that they do not. Six percent said that they do.

We asked those who responded affirmatively to provide examples of the AI tools in use and they offered a number of examples, including: CoPilot, Magical, NetDocs, Co-Counsel, ChatGPT, Billing Language Expander, Lexis AI, and AI solutions that deal with document and transcript summarization, document review, eDiscovery, learning process, and pleading preparation.

### Policy Regarding Firm Use of AI

Twenty-nine percent of respondents said their firm has a policy regarding the use of, or the disclosure of the use of, AI. Thirty-six percent said they did not know whether such a policy existed. The remaining 35 percent said that their firm does not have such a policy.



### Preferred e-Discovery Providers

We asked whether, in situations where a client has not mandated the use of any specific e-discovery provider, the firm has its own preferred provider or formal panel of preferred providers.

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Thirty-six percent of respondents said that they do not have cases involving e-discovery.

<b>Does the Firm Have a Preferred e-Discovery Provider or Panel of Preferred Providers?</b>	
<b>Yes</b>	<b>26%</b>
<b>Yes – but I am not required to go with the Firm’s preference</b>	<b>23%</b>
<b>No</b>	<b>6%</b>

Among those attorneys who do have cases involving e-discovery, almost half (47 percent) said that their firm does not have a preferred provider or panel of preferred providers.

The remaining 53 percent said that their firm does have preferred providers of this service; however, 21 percent said that they are not required to go with the firm’s preference in this regard.

### Percentage of In-House e-Discovery

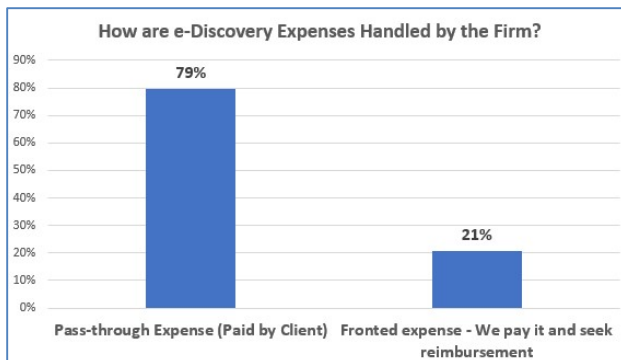
Respondents provided estimates of the amount of e-discovery performed in-house. Forty percent said they never have cases involving e-discovery and their responses were removed from the data pool.

Of those who have cases involving e-discovery, half put their in-house e-discovery at 50 percent or less. A total of 12 percent reported that all their e-discovery is performed in-house. One in ten (9 percent) said they perform no e-discovery in-house.

<b>What Percentage of e-Discovery Is Your Firm Doing In House?</b>	<b>Percentage of Responses</b>
<b>0</b>	<b>9%</b>
<b>1-25</b>	<b>26%</b>
<b>26-50</b>	<b>15%</b>
<b>51-75</b>	<b>18%</b>
<b>76-99</b>	<b>21%</b>
<b>100</b>	<b>12%</b>

### e-Discovery Expenses

Half of the attorney participants (51 percent) said that they were unsure how e-discovery expenses were handled by their firm.



Of those who did know, 80 percent said that e-discovery expenses are treated as a pass-through expense, and that e-discovery invoices are sent to the claims organization for payment.

Approximately one in five (21 percent) said that their firm treats such expenses as a fronted expense, paying the invoice and then looking to the claim department for reimbursement.

### Firm Positions on Holding Client Data

We asked whether, in the last three years, the industry’s increase in data breaches and a renewed focus on data security has changed firms’ positions on holding client data. Thirty-two percent did not know the answer to this question.

<b>Has Your Firm’s Position on Holding Client Data Changed in the Last 3 Years?</b>	<b>Percentage of Responses</b>
<b>No change that I’m aware of</b>	<b>21%</b>
<b>Some Changes – but they are not significant</b>	<b>39%</b>
<b>Significant Changes – our position has changed significantly</b>	<b>40%</b>

Of those who did know, 40 percent reported significant changes and an additional 39 percent reported changes, but not significant ones. Only 21 percent said that there have been no changes, or changes of which they were aware.

### Firm Competitive Attributes

We asked the following question, “Think of the current state of your Firm as it exists today. Help us rank the top three attributes you would point to today to distinguish your Firm from other Firms (i.e., to create a competitive distinction).” We present the top five here, with an indication of how some of the attributes differ by associates and non-associates. **A full list of all the attributes, and a more detailed list of their relative ranking scores by Associate and Non-Associate, can be found in the Appendix to this report.**

<b>Top Attributes that Distinguish Your Firm From Other Firms</b>		
<b>All Respondents</b>	<b>Non-Associates</b>	<b>Associates</b>
<b>Expertise</b>	<b>Expertise</b>	<b>Expertise</b>
<b>Trial Skills</b>	<b>Trial Skills</b>	<b>Culture</b>
<b>Culture</b>	<b>Culture</b>	<b>Trial Skills</b>
<b>Assessment &amp; Resolution Skills</b>	<b>Assessment &amp; Resolution Skills</b>	<b>Assessment &amp; Resolution Skills</b>
<b>Efficiencies</b>	<b>Efficiencies</b>	<b>Technology</b>



## About Client Relationships

### Recurring Insurance Client Friction Points

We asked participants to rank up to five of their most important recurring friction points in relationships with insurance clients. We have listed the top five here, with an indication of how some of these friction points differ between associates and non-associates.

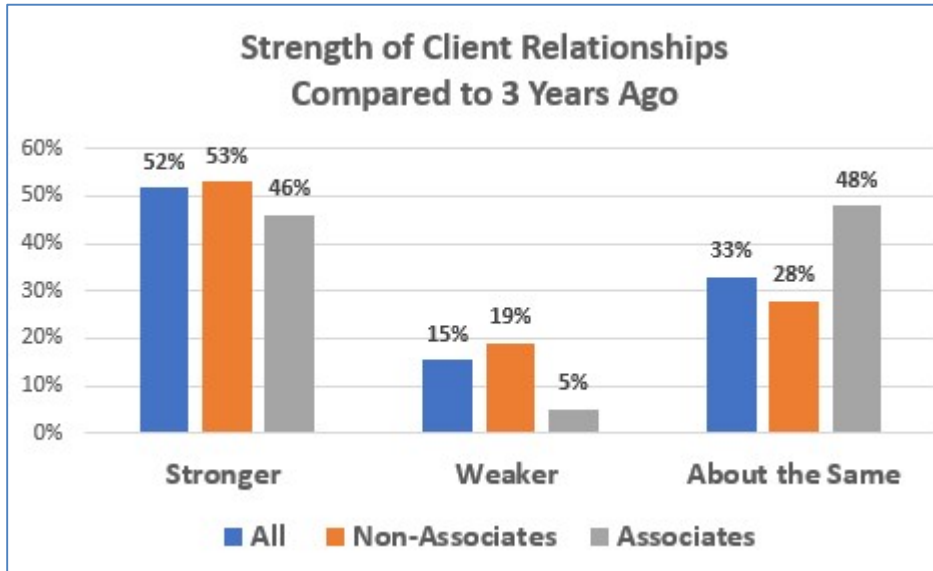
<b>Top 5 Recurring Friction Points with Insurance Company Clients</b>		
<b>All Respondents</b>	<b>Non-Associates</b>	<b>Associates</b>
<b>Payment Issues</b>	<b>Payment Issues</b>	<b>Client Responsiveness</b>
<b>Rate Issues</b>	<b>Rate Issues</b>	<b>Rate Issues</b>
<b>Client inflexible on staffing needs</b>	<b>Client inflexible on staffing needs</b>	<b>Payment Issues</b>
<b>Conflict of Interest Issues</b>	<b>Clients don't seem to value my work</b>	<b>Clients hold unrealistic expectations</b>
<b>Clients don't seem to value my work</b>	<b>Conflict of interest issues</b>	<b>Hampered in my ability to provide the best defense</b>

A full list of all the attributes, and a more detailed list of their relative ranking scores by Associate and Non-Associate, can be found in the Appendix to this report.

### Strength of Client Relationships

We asked whether, overall, participants feel that their law firm's relationships with insurance company, TPA, and self-insured clients are stronger, weaker, or about the same, when compared to three years ago.

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Across all participants, 52 percent feel that relationships are stronger when compared to three years ago; one third (33 percent) feel they are about the same and 15 percent feel that relationships are weaker.

In terms of differences in perception between associates and non-associates, almost half of the associates feel that relationships are about the same, but only 28 percent of non-associates feel this way. Conversely, only one out of 20 (five percent) of associates feel that relationships are weaker but almost one out of five (19 percent) of non-associates feel that way.

We have this same question of chief claim officers and litigation executives in several prior studies, and the ebb and flow of the responses over the past five years can be seen in the following illustration.

Strength of Relationships	Defense Counsel 2024	Litigation Executives 2023	Defense Counsel 2020	Litigation Executives 2019
<b>Stronger</b>	<b>52%</b>	<b>54%</b>	<b>61%</b>	<b>54%</b>
<b>Weaker</b>	<b>15%</b>	<b>6%</b>	<b>18%</b>	<b>6%</b>
<b>Same</b>	<b>33%</b>	<b>40%</b>	<b>21%</b>	<b>40%</b>

### Understanding Client Needs

We asked a similar question related to how good a job their firm is doing, compared to three years ago, in terms of understanding insurance client needs.

There was more uniformity in responses between associates and non-associates in this respect.



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Fifteen percent reported that their firm is doing a worse job in this area. Roughly half (52 percent) feel they are doing better; about a third feel that they are doing about the same.

Again, the ebb and flow of these responses over the past five years can be seen in this illustration.

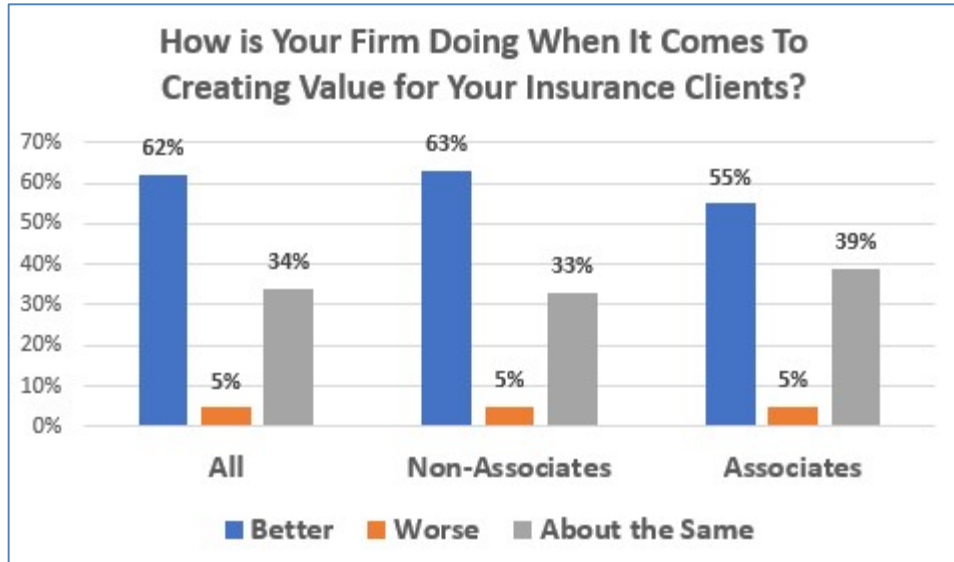
Understanding Client Needs	Defense Counsel 2024	Litigation Executives 2023	Defense Counsel 2020	Litigation Executives 2019
Doing Better	52%	38%	78%	60%
Doing Worse	15%	8%	3%	2%
About the Same	33%	55%	19%	38%

### Creating Value for Clients

As in prior studies, we asked participants to identify how good a job they feel their firm is doing in terms of creating value for their insurance clients. We allowed respondents to define value as they wished.

Again, responses between associates and non-associates were relatively uniform. Non-associates were a little more bullish than associates in their opinion that their firm is doing better when it comes to creating value, but not significantly.

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However, both groups were more bullish than buyers of their legal services, as can be seen in this illustration of responses to that identical question over the past five years.

Creating Value	Defense Counsel	Litigation Executives	Defense Counsel	Litigation Executives
	2024	2023	2020	2019
<b>Doing Better</b>	<b>62%</b>	<b>30%</b>	<b>79%</b>	<b>48%</b>
<b>Doing Worse</b>	<b>5%</b>	<b>4%</b>	<b>1%</b>	<b>5%</b>
<b>About the Same</b>	<b>34%</b>	<b>66%</b>	<b>20%</b>	<b>48%</b>

### Describing Law Firm Value

How attorneys effectively describe the value of their firm is a subject of great interest to us (and to attorneys seeking new clients). To some degree, the benchmark for this effectiveness can best be described not by the attorneys doing the describing but by the buyers of legal services who are listening to the description.

For this 2024 Study, we changed our rating system for self-evaluation and moved to a 7-point Likert Scale, where respondents were asked to subjectively rate several different self-assessment issues on a scale of 1-7. Because prior studies used different scales (1-10; 1-100), we have normalized many of the Likert scale responses into a 1-100 scale to provide comparison points as frequently as possible.

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The specific question was, “Please rank your general perception of your firm’s ability to describe its value (competitively) and to distinguish your firm from other firms.” The average response to this question was a 5.7 on a scale of 1-7. There was no appreciable difference between associates and non-associates, except that associates were more bullish at 5.8 / 7 and non-associates scored their ability at a 5.6 out of 7.

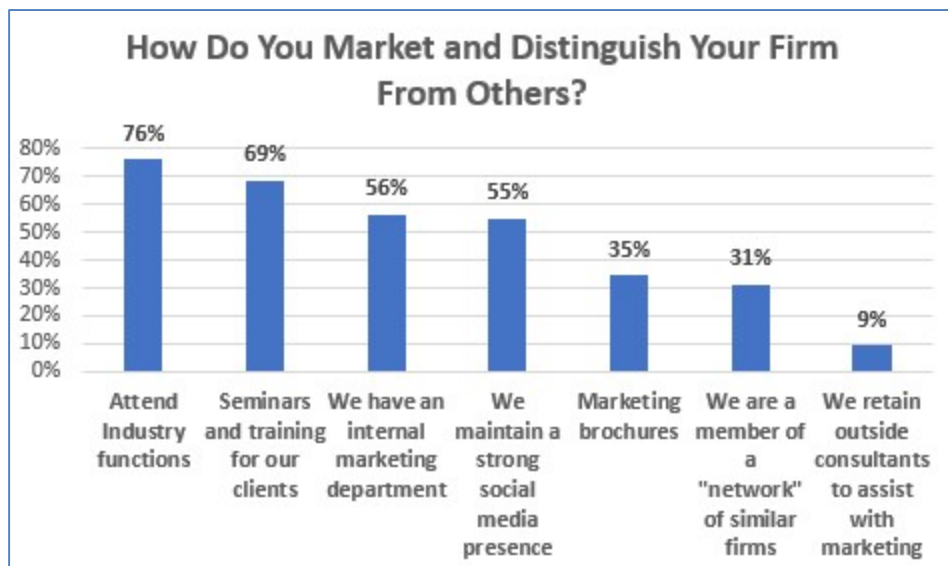
We have asked this question across multiple studies and provide you with those responses here, albeit with different ranking systems.

<b>Firms' Ability to Describe Value</b>	<b>Defense Counsel 2024</b>	<b>Litigation Executives 2023</b>	<b>Defense Counsel 2020</b>	<b>Litigation Executives 2019</b>
<b>Scores</b>	<b>5.7 / 7</b>	<b>48</b>	<b>79</b>	<b>51</b>
	<b>81 out of 100</b>	<b>out of 100</b>	<b>out of 100</b>	<b>out of 100</b>

As illustrated, attorneys seem to be more favorable in their self-assessment of this ability than litigation and claim executives are.

### How Firms Market

Participants were given several options to identify how they market their services. The percentages indicate the number of respondents who checked that option, and therefore the percentages should not add to 100 percent. The percentages shown are the percentage of respondents who picked a specific selection, among many choices.



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The most popular selections are identified above. In addition, we have included in the Appendix a compilation of “Other” responses that participants added to the list.

### Non-Billing Guidelines Compliance

Participants were asked whether they believe their firm, compared to three years ago, is doing better, worse, or about the same, when it comes to complying with non-billing, file-handling guidelines (such as reporting timeframes, authorization rules, and other non-billing guidelines).

There was no appreciable difference in assessment between associates and non-associates for this question. Forty-five percent of associates feel their firms are doing better; 44 percent of non-associates feel that way. Five percent of associates feel their firms are doing worse; 4 percent of non-associates feel that way. These are not significant changes.

The historical answers to this question, trended over several recent studies, are summarized below.

<b>Compliance with NON-BILLING GUIDELINES</b>	<b>Defense Counsel 2024</b>	<b>Litigation Executives 2023</b>	<b>Defense Counsel 2020</b>	<b>Litigation Executives 2019</b>
<b>Doing Better</b>	<b>44%</b>	<b>25%</b>	<b>60%</b>	<b>44%</b>
<b>Doing Worse</b>	<b>4%</b>	<b>5%</b>	<b>2%</b>	<b>2%</b>
<b>About the Same</b>	<b>52%</b>	<b>70%</b>	<b>38%</b>	<b>55%</b>

### Billing Guidelines Compliance

Like non-billing guidelines compliance, there was no appreciable difference between associates and non-associates when it comes to assessing firms’ ability to comply with billing guidelines.

As with prior studies however, there is about a 20-percentage points difference between attorneys and the executives who purchase and use their services in the assessment of whether firms are doing better at billing compliance.

In 2019, 56 percent of litigation executives said better. In 2020 74 percent of attorneys said they’re doing better. Similarly, 57 percent of attorneys in this study said they feel their firm is doing better at billing compliance. Only a year earlier, in 2023, 36 percent of executives said this.

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<b>Compliance with BILLING GUIDELINES</b>	<b>Defense Counsel 2024</b>	<b>Litigation Executives 2023</b>	<b>Defense Counsel 2020</b>	<b>Litigation Executives 2019</b>
<b>Doing Better</b>	<b>57%</b>	<b>36%</b>	<b>74%</b>	<b>56%</b>
<b>Doing Worse</b>	<b>3%</b>	<b>6%</b>	<b>4%</b>	<b>1%</b>
<b>About the Same</b>	<b>40%</b>	<b>58%</b>	<b>22%</b>	<b>43%</b>

### Changes in Per-File Fees and Costs

We asked participants to identify whether per-file fees and costs, when compared to three years ago, have changed. This was a challenging question for some participants to answer. Sixty percent of associates said they did not know the answer to this question. While that did not surprise us, we found it worth noting that almost a quarter (23 percent) of non-associates did not know the answer to this question either. We also note that in the 2020 CLM Defense Counsel Study, 30 percent of attorneys overall said they did not know the answer to this question.

When we removed answers from those who did not know, there were not significant differences between associates and non-associates. Sixty percent of non-associates believe that per-file fees and costs have increased; 52 percent of associates believe this. We have asked this question in other studies and summarize those responses below.

<b>Per-File Fees and Cost Changes</b>	<b>Defense Counsel 2024</b>	<b>Litigation Executives 2023</b>	<b>Defense Counsel 2020</b>	<b>Litigation Executives 2019</b>
<b>Have Increased</b>	<b>60%</b>	<b>78%</b>	<b>29%</b>	<b>53%</b>
<b>Have Decreased</b>	<b>5%</b>	<b>6%</b>	<b>30%</b>	<b>18%</b>
<b>About the Same</b>	<b>36%</b>	<b>15%</b>	<b>41%</b>	<b>29%</b>

From a high-level perspective we feel it is worth noting that the percentage point increases of those who feel that per-file fees and costs have increased are dramatic. From 2019 to 2023 the percentage of litigation executives who believe this jumped 25 percentage points, from 53 to 78 percent.

Similarly, from 2020 to 2024, the percentage of defense attorneys who believe this jumped 31 percentage points, from 29 to 60 percent.

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### Overall Firm Performance Metrics

We were curious what participants would identify in response to the question, “please identify the metrics, if any, that your firm uses internally to measure overall firm performance on insurance defense related assignments.” The popularity of responses, and any variance between associate and non-associate respondents is illustrated here.

Top Metrics Used to Measure Firm Performance		
All Respondents	Non-Associates	Associates
Positive Outcomes	Positive Outcomes	Positive Outcomes
Process and reporting compliance	Process and reporting compliance	Billing efficiency
Billing Efficiency	Billing Efficiency	Process and Reporting Compliance
Cycle time	Cycle time	Cycle time
Invoice reduction percentages	Invoice reduction percentages	Invoice reduction percentages

Of note is the fact that for about 10 percent of respondents, they identified that none of these metrics (factors) is used to measure firm performance. (This was contrasted with one response that highlighted that their firm uses 100 points of measurement in their own performance assessments.)

**A complete listing of all the factors, and their relative scoring, can be found in the Appendix.**

### Individual Attorney Performance Metrics

We identified 14 potential metrics (factors) for measuring individual attorney performance and asked participants to select those that their firm uses on assignments from insurance companies.

The frequency of the metrics that were identified, and the differences in frequency between associates and non-associates, is illustrated below for the top five selections.



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<b>Top Metrics Used to Measure Individual Performance</b>		
<b>All Respondents</b>	<b>Non-Associates</b>	<b>Associates</b>
Aggregate billable hours	Aggregate billable hours	Aggregate billable hours
Timeliness of billing entries	Timeliness of billing entries	Positive outcomes
Positive outcomes	Aggregate fees collected	Timeliness of billing entries
Invoice reduction percentages	Invoice reduction percentages	Process and reporting compliance
Aggregate fees collected	Positive outcomes	Invoice reduction percentages

We thought it notable that other additional factors (possible selections in the survey instrument) that did not make the top five selections include such items as cycle time, indemnity outcome, cost to indemnity ratios, billing efficiency, mentorship, firm citizenship, and marketing. **A complete listing of all 14 factors, and their relative scoring, can be found in the Appendix.**

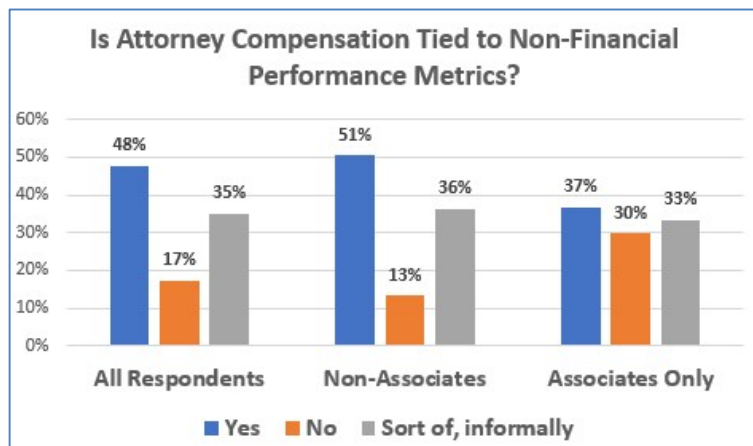
Three percent of non-associates and 4 percent of associates identified that none of these factors are used in their firms to measure individual attorney performance.

### Compensation Tied to Non-Financial Performance

Participants were asked whether individual attorney compensation is tied in any way to any non-financial performance metrics.

About half (48 percent) said yes; an additional third (35 percent) said yes as well, but informally.

There were some differences between associates and non-associates in these responses, but the differences in compensation structure between those two groups are not surprising.



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However, the specific non-financial factors identified as being those that factor into compensation decisions differed more dramatically between associates and non-associates. The top five selections for both groups, and the overall scoring, are illustrated here.

<b>Top Non-Financial Metrics That Factor Into Compensation Decisions</b>		
<b>All Respondents</b>	<b>Non-Associates</b>	<b>Associates</b>
<b>Mentorship</b>	<b>Mentorship</b>	<b>Positive outcomes</b>
<b>Positive outcomes</b>	<b>Marketing activity</b>	<b>None of these</b>
<b>Marketing activity</b>	<b>Firm citizenship</b>	<b>Process and compliance reporting</b>
<b>Firm citizenship</b>	<b>Positive outcomes</b>	<b>Complexity of matters handled</b>
<b>Process and compliance reporting</b>	<b>Process and compliance reporting</b>	<b>Mentorship</b>

It seems logical that associates and non-associates would be compensated on a diverse set of factors. However, we believe these differences in these responses, from associates and non-associates, will be of interest to managing partners and firm leaders.

### **Alignment of Performance Measurements**

We asked participants to indicate how closely aligned their firm’s performance measurements are with the performance measurements being used by their clients.

Overall, survey respondents gave this an average rating of 4.0 out of 7, and a median score of 5.0 out of 7. There was no significant difference in the ratings given by associates and non-associates. These scores equate to 57 and 71 on a scale of 1-100.

When we asked this question in the 2020 CLM Defense Counsel Study, the average score was 66 out of 100; the median score was 75 out of 100.

We do not perceive that there has been a fundamental change in how attorneys view the alignment of their performance measurements with those of their clients. We would be curious to know whether



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claim officers would view the measurement factors listed to be aligned with theirs but have not asked that question to date. We believe this would be a good source of conversation and dialogue for defense attorneys to pursue.

### Do Attorneys Ask About Performance Data

We asked participants to indicate how often they ask clients to share the performance data their clients maintain about them and their firm. The average response was a 2.1 on a scale of 7. This correlates to about 30 percent of a maximum score of 7.0.

This response suggests that this information is not being sought out more frequently than in prior years. We offer these points of comparison:

- In the 2023 CLM Litigation Management Study, 86 percent of claim and litigation executives said that law firms do not ask for such information enough.
- Attorneys in the 2020 CLM Defense Counsel Study scored their frequency of asking for such information at a 30 on a scale of 1-100.
- In the 2019 CLM Litigation Management Study, 96 percent of claim and litigation executives said that law firms do not ask for such information enough.

## Client Assessment

### Claim Professional Effectiveness – Budgeting

Attorneys rated the effectiveness of the claim professionals they work with, when it comes to evaluating and negotiating litigation budgets, as a 2.8 on scale of 1-7. Associates provided an average rating of 3.0; non-associates were more critical, with an average score of 2.7. The overall median score was 2 out of 7.

This equates to a normalized average score of approximately 40 percent and a median score of 29 percent. We view both scores to be critical of claims professionals’ overall effectiveness in this area. We offer these other data points for discussion:

Effectiveness of Claim Professionals in Evaluating and Negotiating Litigation Budgets				
	Defense Counsel 2024	Litigation Executives 2023	Defense Counsel 2020	Litigation Executives 2019
<b>Average</b>	<b>40%</b> <b>(2.8 out of 7)</b>	<b>46%</b>	<b>N/A</b>	<b>49%</b>
<b>Median</b>	<b>29%</b>	<b>N/A</b>	<b>23%</b>	<b>N/A</b>

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### Claim Professional Engagement – Collaborative Planning

Attorneys rated the ease of engaging claim professionals in collaborative planning as a 4.5 on scale of 1-7. Associates provided an average rating of 4.0; non-associates find it easier to engage claim professionals, with an average score of 4.6. The overall median score was 5 out of 7. For all participants, these scores translate to an average score of 64 and a median score of 71 out of 100, respectively.

We viewed these scores to be very positive.

### Claim Professional Helpfulness – Collaborative Planning

Attorneys rated the helpfulness of claim professionals in collaborative planning (when they are engaged) as a 4.2 on a scale of 1-7. Associates provided an average rating of 3.6; non-associates find claim professionals to be more helpful, with an average score of 4.4. The overall median score was 5 out of 7. The overall median score was 5 out of 7. This translates to scores of 63 and 71 out of 100, respectively.

Again, we viewed these scores to be positive.

### Client Feedback – Will they provide it?

As we have in the past, we asked how likely attorneys feel it is, that if they ask their clients for performance data about their firm, that they will be given this information. The average score given to this question was a 3.5 on a scale of 7. The median score was a 4 out of 7. These translate to scores of 50 and 57, respectively.

Sentiment about this issue has not changed significantly since the 2020 CLM Defense Counsel Study, when attorneys rated the likelihood of receiving this information at 54 out 100.

We are mindful that in the 2023 Litigation Management Study, 89 percent of executives said they will share this information if asked, and in the 2019 Litigation Management Study, 92 percent of executives said they will share this information if asked by a law firm.

### Client Feedback – Helpfulness

Attorneys rated the helpfulness of the performance assessments they receive from clients highly (when they receive them). The overall average rating was a 4.7 on a scale of 1-7. Associates provided an average rating of 4.3; non-associates find it even more helpful, with an average score of 4.8. The overall median score was 5 out of 7. For all attorneys this translates to an average score of 67 and a median score of 71.

In the 2020 CLM Defense Counsel Study, attorneys rated the helpfulness of these assessments at 83 out of 100. We perceive that defense attorneys are hungry for feedback.

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**Client Feedback – Is it valuable?**

We asked participants to pick **only one** statement that best summarizes their feelings about the performance data shared with them by their clients. The results are summarized here:

Attorney Classification of Performance Data Provided to them By Clients	All Respondents %	Non- Associates %	Associates %
<b>It is generally pretty insightful information, and we value it</b>	<b>38</b>	<b>39</b>	<b>33</b>
<b>It is too focused on costs and ignores the outcomes</b>	<b>28</b>	<b>31</b>	<b>29</b>
<b>It doesn't matter what I think about it. They are the client.</b>	<b>24</b>	<b>22</b>	<b>22</b>
<b>It is too objective. It isn't just about the numbers!</b>	<b>10</b>	<b>8</b>	<b>16</b>

We find these responses to be relevant and important to senior claim and litigation officers. Broadly classified, about 40 percent of the attorneys seem to truly find the information to be helpful. Another 25 percent simply accept the reality of the business relationship. The remaining 35 percent or so object either to an emphasis on costs versus outcomes, or perhaps a lack of subjective appreciation for their work.

Several comments to this question stood out to us, each reflecting a different perspective:

- *“It does not always compute. Complex, catastrophic and cases involving difficult players stay open longer and require work. There is no metric for that.”*
- *“It is too vague to be useful. ‘You did great!’ What do you do with that?”*
- *“Unrealistic and focused on the wrong things, but they are the client and so we can't succeed unless they think we are succeeding.”*

When compared to the results of the 2020 Defense Counsel Study we noted these changes:

Attorney Classification of Performance Data Provided to them By Clients	Defense Counsel 2024	Defense Counsel 2020	Delta 20-24
<b>It is generally pretty insightful information, and we value it</b>	<b>38</b>	<b>47</b>	<b>-9</b>
<b>It is too focused on costs and ignores the outcomes</b>	<b>28</b>	<b>38</b>	<b>-10</b>
<b>It doesn't matter what I think about it. They are the client.</b>	<b>24</b>	<b>8</b>	<b>+ 16</b>
<b>It is too objective. It isn't just about the numbers!</b>	<b>10</b>	<b>7</b>	<b>+3</b>

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### Describing Claims and Legal Needs

Attorneys rank how well their clients “describe their claims and legal needs” as a 4.4 on a scale of 1-7. Associates provided an average rating of 4.5; non-associates provided an average score of 4.4. The overall median score was 5 out of 7. For all attorneys, this translates to an average score of 63 and a median score of 71.

The average score of 4.4 out of 7 equates to 63 percent of a perfect score. In this sense the general scoring is identical to the score provided in the 2020 Defense Counsel Study, which was 63 out of 100.

### Who Drives File Strategy?

We asked each participant to delineate who they feel is the primary driver of case strategies on most of the files they are handling. The answers were as follows:

Who is the primary driver of case strategy on most of your files?	All Respondents %	Non-Associates %	Associates %	Defense Counsel 2020
<b>I am. Generally, I outline the strategy and the claims professional authorizes it.</b>	<b>66</b>	<b>68</b>	<b>63</b>	<b>55</b>
<b>The claims professional. They outline a strategy and I execute it.</b>	<b>4</b>	<b>3</b>	<b>8</b>	<b>4</b>
<b>We both do. It’s a harmonious and symbiotic process.</b>	<b>30</b>	<b>30</b>	<b>29</b>	<b>42</b>

We have included the results from the 2020 CLM Defense Counsel Study so that readers can see the shifts in answers to this question. Fewer attorneys identified this as being a harmonious process (a decrease from 42 percent to 30 percent) and more attorneys said that they are the primary driver of strategy (an increase from 55 percent to 66 percent).

These changes may be of concern for those litigation and claim executives who would like to see their claim professionals being more actively engaged in the litigation strategy development process. Still, almost one third (30 percent) of attorneys report a process that is symbiotic; although, it should be noted that that 30 percent is a 12-point decrease from 2020.

### Claim Professional Expertise

Survey participants were asked to identify any changes in litigation management expertise levels across the claim professionals they work with. This is a critically important question, given the challenges of talent acquisition within the claim management industry.

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The answers provided are illustrated here, along with the answers provided four years ago in the 2020 CLM Defense Counsel Study.

Claim professional litigation management expertise (compared to three years ago)	All Respondents %	Non-Associates %	Associates %	Defense Counsel 2020
<b>Greater</b>	<b>16</b>	<b>14</b>	<b>20</b>	<b>29</b>
<b>Less</b>	<b>36</b>	<b>40</b>	<b>27</b>	<b>27</b>
<b>Same</b>	<b>48</b>	<b>47</b>	<b>54</b>	<b>40</b>

The percentage of those who are seeing greater expertise across the claim professionals they work with has decreased by almost half, from 29 percent to 16 percent.

The percentage of those who are seeing less expertise in their claim professional clients has risen by one third, from 27 percent to 36 percent.

Said another way, roughly four of every 10 attorneys feels that they are seeing less litigation management expertise in the claim professionals they are working with.

## Philosophical Views

### Hiring the Firm vs. the Attorney

This has been a question asked in many prior studies. It is designed in part to flush out some core philosophical considerations about where the highest legal value is perceived to come from. Is it from the strength of the law firm itself, its processes and bench strength? Or is it from the skills of the individual attorney, and his or her knowledge and savvy?

The specific question reads: “When a client decides to do business with your Firm or an attorney in your Firm, is it your belief that they are primarily hiring the Firm or the individual attorney? Assume you cannot say both; please select only one.”

Is a client hiring the Firm or the Specific Attorney?	All Respondents %	Non-Associates %	Associates %
<b>The Firm</b>	<b>54</b>	<b>50</b>	<b>68</b>
<b>The Specific Attorney</b>	<b>46</b>	<b>50</b>	<b>32</b>

This is the highest scoring we’ve seen for The Firm vs. the individual attorney since we began performing these studies.

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To give you some sense for how these responses have changed over time:

Is a client hiring the Firm or the Specific Attorney?	Defense Counsel 2024	Litigation Executives 2023	Defense Counsel 2020	Litigation Executives 2019	Litigation Executives 2015
<b>The Firm</b>	<b>54</b>	<b>26</b>	<b>37</b>	<b>16</b>	<b>16</b>
<b>The Specific Attorney</b>	<b>46</b>	<b>74</b>	<b>63</b>	<b>84</b>	<b>84</b>

We’re a little unsure what to make of this change, other than to see if there is going to be an increase in similar sentiment by litigation and claim executives in the next CLM Study. The percentage of executives who believe in hiring “the firm” (and not just the specific attorney) rose 63 percent from 2019 to 2023 (from 16 percent to 26 percent).

We will see if this is a change in sentiment that continues, and we continue to believe that understanding this core philosophical tenet is important to a clear and productive dialogue between those who buy legal service and those who provide them.

### Ability to Resolve Litigation

There seems to be uniform agreement between both buyers and legal providers that some attorneys are better than other attorneys at getting litigation resolved. In prior studies we have asked whether people believe that some attorneys are better than others at doing this, but there was such unanimity in agreement (100 percent of litigation executives; 97 percent of attorneys) that we frankly no longer waste a question on that topic.

Instead, we’re interested in why people feel some attorneys are better than others at resolving disputes, and whether attorneys view this differently than the litigation executives they work with.

Why are some attorneys better at resolution than others?	All Respondents %	Non-Associates %	Associates %
<b>This is an innate skill. It cannot be taught.</b>	<b>6</b>	<b>6</b>	<b>6</b>
<b>This is a skill that can be taught and learned.</b>	<b>71</b>	<b>71</b>	<b>70</b>
<b>It is less about individual skills and more about processes that good firms use to take the right action at the right time.</b>	<b>23</b>	<b>24</b>	<b>25</b>



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To provide some sense of how these sentiments may have changed over time we offer this summary:

Why are some attorneys better at resolution than others?	Defense Counsel 2024 %	Litigation Executives 2023 %	Defense Counsel 2020 %	Litigation Executives 2019 %
<b>Skill – can’t be taught</b>	<b>6</b>	<b>4</b>	<b>8</b>	<b>10</b>
<b>Skill – can be taught and learned</b>	<b>71</b>	<b>64</b>	<b>64</b>	<b>47</b>
<b>More about process</b>	<b>23</b>	<b>32</b>	<b>28</b>	<b>43</b>

Clearly executives place more emphasis on the process, but those numbers have declined from 2019 to 2023, as have defense counsel’s values for process from 2020 to 2024. Regardless of philosophical orientation, however, there is a clear attribution toward skills that can be taught and learned (or process) over the concept that this is an unteachable skill some people are simply born with.

The next question for all of us then, may be how we teach these skills, and create processes that support this improved ability to resolve disputes and close files.

### Do Litigated Claims Settle Later than Necessary?

We asked respondents whether they feel that most litigated claims settle later in the process than is necessary. According to the 2023 CLM Litigation Management Study, 87 percent of litigation and claim executives believe this to be the case.

Participants provided the following response:

Do most litigated claims settle later than necessary?	All Respondents %	Non-Associates %	Associates %
<b>Yes</b>	<b>63</b>	<b>62</b>	<b>70</b>
<b>No</b>	<b>37</b>	<b>38</b>	<b>30</b>

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The percentage of attorney responses in this study were identical to those in the 2020 CLM Defense Counsel Study. Both are much lower than the scores provided by litigation executives in the 2023 and 2019 CLM Litigation Management Studies.

<b>Do most litigated claims settle later than necessary?</b>	<b>Defense Counsel 2024</b>	<b>Litigation Executives 2023</b>	<b>Defense Counsel 2020</b>	<b>Litigation Executives 2019</b>
<b>Yes</b>	<b>63</b>	<b>87</b>	<b>63</b>	<b>80</b>
<b>No</b>	<b>37</b>	<b>13</b>	<b>37</b>	<b>20</b>

### Why Files Settle Later Than Necessary?

We provided several possible reasons for later-than-necessary file resolutions, and asked participants to identify the top three reasons that resonated with them the most.

A complete listing of all factors, and their relative scoring, can be found in the Appendix.

<b>Top Reasons Litigated Files Resolve Later Than Necessary</b>		
<b>All Respondents</b>	<b>Non-Associates</b>	<b>Associates</b>
<b>Plaintiff counsel not motivated</b>	<b>Plaintiff counsel not motivated</b>	<b>Other</b>
<b>Plaintiff counsel unable to manage client</b>	<b>Plaintiff counsel unable to manage client</b>	<b>Plaintiff counsel unable to manage client</b>
<b>Difficulty obtaining necessary information</b>	<b>Difficulty obtaining necessary information</b>	<b>Plaintiff counsel not motivated</b>
<b>Other</b>	<b>Defense counsel not motivated</b>	<b>Insurance carrier creates settlement obstacles</b>
<b>Defense counsel not motivated</b>	<b>Other</b>	<b>Policyholder issues can slow down process</b>



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Given the prevalence of “Other” as a primary reason, we list below some of the comments made by participants:

- *“Volume of cases.”*
- *“Often, plaintiff’s counsel will be unreasonable at the beginning of the case, and only become reasonable later. Settling early would require an overpayment.”*
- *“The need to do some discovery to prove to the plaintiff’s counsel their overvaluation of the claim.”*
- *“Issues of liability cannot be resolved due to plaintiff’s fraud, lies, or exaggeration.”*

### Timing of Initial Offers

Anecdotally, there appears to be high levels of support in the litigation executive community for making an initial offer prior to the receipt of a serious demand. The potential benefits of doing this, at least in the negotiation science community, are numerous, including anchoring bias, establishing perceived control, creating an information advantage, and expressing perceived confidence, among many others.

We were curious about participants’ general thoughts on this topic. We presented several affirmative statements and asked participants to simply indicate which statements they agreed with. Participants could pick as many statements as they wished.

The first, second, and third most popular selections are color coded so that variances in the ways associates and non-associates view these issues can be seen easily.

Check All Statements With Which You Agree	All Respondents	Non-Associates	Associates
Once the defense is able to evaluate the case, it should make an offer, regardless of whether plaintiff has made a demand, so as to move the case along and decrease duration and legal costs.	1st	1st	2nd
The defense need not wait for a settlement demand from plaintiff before making an offer	2nd	2nd	4th
The defense (defendant’s counsel or the claims professional) should wait for plaintiff’s counsel to make a settlement demand before making an offer.	3rd	4th	1st
It makes no difference to the ultimate settlement whether plaintiff’s counsel or the defense initiates settlement discussions with a demand or offer, respectively.	4th	3rd	5th
The defense will end up paying too much indemnity if it makes an offer before a reasonable demand from plaintiff.	5th	5th	3rd

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We were struck by the popularity of the statement that the defense should wait for a demand before making an offer. This was first for associates and third overall.

The statement that the defense need not wait for a demand before making an offer scored fourth for associates. The statement that the defense will end up paying too much indemnity if it makes an offer before a reasonable demand was third for associates.

These are critically important negotiation strategies and the topic may be of particular relevance given the high number attorneys who say that they are now driving litigation strategies exclusively on files.

### Timing Settlement Generally

We asked a broader question about the timing of settlements generally, using the same format where participants could check all the statements with which they agree.

On this question associates and non-associates were completely aligned.

Check all statements with which you agree	All Respondents	Non-Associates	Associates
An early settlement is generally more economical as it will save on total cost	1st	1st	1st
An early settlement generally leads to lower indemnity payments	2nd	2nd	2nd
An early settlement is likely to mean less fees for me	3rd	3rd	3rd
I don't agree with any of the statements above	4th	4th	4th
An early settlement generally leads to higher indemnity payments	5th	5th	5th

### Does Hourly Billing Align Interests?

We asked participants in the Study to rank how well they feel the traditional hourly billing model aligns the interests of law firms and their clients. We have asked this question across multiple studies.

Respondents gave an average response of 4.7 out 7, which equates to 67 percent of a perfect score. Associates were slightly, but not meaningfully, lower at a 4.6.

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How well does hourly billing align interests between firm and client?	Defense Counsel 2024	Litigation Executives 2023	Defense Counsel 2020	Litigation Executives 2019
<b>Score</b>	<b>67</b>	<b>66</b>	<b>69</b>	<b>60</b>

As this summary illustrates, this score has not changed appreciably over the past five years.

Providers and buyers of legal services seem similarly aligned on compensation model.

### Do AFAs Align Interests?

Similarly, we asked participants to rank how well they feel alternative fee arrangements align the interests of law firms and their clients.

Respondents provided an average score of 2.8 out of 7, which equates to 40 percent of a perfect score. Associates were more optimistic about AFAs, at 3.7; non-associates are quite skeptical of any alignment with AFAs, providing a score of 2.6.

We have not asked this precise question previously, so year-to-year trends are not possible. However, we do note that in the 2020 CLM Defense Counsel Study, attorneys ranked their overall comfort level with AFAs at 43 out of 100 – a score we described at the time as lukewarm.

### Relationship Between Defense Costs and Outcome

For several years, we have asked whether study participants believe that spending more money on the defense of the case (i.e., more legal fees) results in a better indemnity payment. We view this question as a core component of how buyers and providers of legal services define value.

The specific question reads, “In general, do you believe that spending MORE money on the defense of a lawsuit will generally reduce the indemnity costs (verdict, settlement) in that lawsuit?” This is a forced binary question forcing a yes or no response.

This year precisely half of the respondents (50 percent) said yes to this question. More non-associates (53 percent) believe this to be the case than associates (44 percent). Historical answers to this question can be seen in this illustration:

Does spending more on the defense of a lawsuit improve indemnity outcome?	Defense Counsel 2024 %	Litigation Executives 2023 %	Defense Counsel 2020 %	Litigation Executives 2019 %	Litigation Executives 2015 %
<b>Yes</b>	<b>50</b>	<b>19</b>	<b>55</b>	<b>21</b>	<b>16</b>
<b>No</b>	<b>50</b>	<b>81</b>	<b>45</b>	<b>79</b>	<b>84</b>

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### About Billing Rates Generally

We provided a series of 10 statements about legal billing rates generally, and asked participants to simply indicate which statements they agreed with.

While we would not expect associates to play key roles in the negotiation of rates with clients, we have highlighted a few distinctions between the responses given by non-associates and associates.

We have listed the Top three statements with which most attorneys agreed, and the bottom three statements (with which the least number of attorneys agreed) below.

Legal Billing Rates Check those statement with which you agree	All Respondents %	Non- Associates %	Associates %
<b>Low rates in this industry sector adversely affect the insurance defense bar</b>	<b>74</b>	<b>71</b>	<b>57</b>
<b>I am willing to lose a client if they will not agree to a rate increase that I believe is fair</b>	<b>54</b>	<b>61</b>	<b>28</b>
<b>My firm is paid competitively compared to other insurance defense firms</b>	<b>48</b>	<b>48</b>	<b>40</b>

Here are the bottom three statements:

<b>Carriers respond favorably to requests for rate increases due to the inflationary pressures of the past three years</b>	<b>15</b>	<b>19</b>	<b>2</b>
<b>Generally, carriers appreciate the scarcity of experienced trial attorneys and are willing to pay appropriate rates accordingly</b>	<b>14</b>	<b>15</b>	<b>13</b>
<b>I am willing to lower my hourly rate to get more work</b>	<b>6</b>	<b>6</b>	<b>6</b>

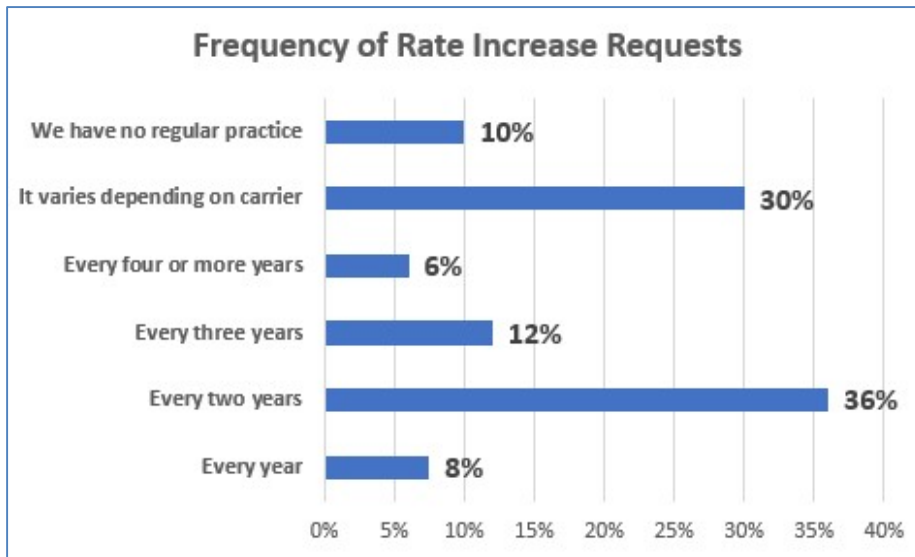
A full listing of all 10 statements, and their relative rankings, can be found in the Appendix.

### Frequency of Rate Increases

We asked participants to identify how often they make rate increase requests from their insurance company clients. Almost four of 10 respondents (38 percent) did not have any insight into this, so we removed them from the data pool.

Among those who did know, the frequency of rate increase requests appears to be highly varied.

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### Competitive Pressures

We asked generally whether, when compared to three years ago, respondents believe that the competitive environment their law firm operates is more competitive, less competitive, or about the same.

Firm Competitive Environment (vs. 3 Years Ago)	All Respondents %	Non-Associates %	Associates %
<b>More Competitive</b>	<b>66</b>	<b>70</b>	<b>54</b>
<b>Less Competitive</b>	<b>5</b>	<b>6</b>	<b>6</b>
<b>About the Same</b>	<b>29</b>	<b>25</b>	<b>40</b>

Overall, two thirds (66 percent) find the environment to be more competitive. Seventy percent of non-associates find the environment to be more competitive. Less than a third (29 percent) feel it is about the same. As the chart above reflects, associates (perhaps not surprisingly) are not feeling the competitive pressures as much.

For comparison, in the 2020 Defense Counsel Study, 85 percent of attorneys said the environment was “more competitive,” so in that sense some of these pressures may have decreased.

The responses in this Study are like those we have received in prior studies, and litigation and claim executives appear to agree with these numbers. Sixty-one percent of them said “more competitive” in the 2023 CLM Litigation Management Study; 62 percent agreed with that in the 2019 Study. All these numbers are better than the 84 percent of litigation executives who felt that way in 2015.

## Sources of Competition

Most respondents indicated that the organizations they feel are creating the most competitive pressure are other law firms. Sixty-nine percent identified these firms as being the same law firms they have competed against for some time. Only 14 percent identified new law firms as being the source of their most competitive pressure.

Sources of Competitive Pressure	All Respondents %
<b>The same law firms</b>	<b>69</b>
<b>New law firms</b>	<b>14</b>
<b>Clients' legal operations teams</b>	<b>7</b>
<b>Clients' staff counsel operations</b>	<b>5</b>
<b>Other</b>	<b>4</b>
<b>Alternative legal service providers</b>	<b>1</b>

Alternative legal service providers are not perceived to be a competitive threat (one percent); similarly, clients' staff counsel operations are not perceived to be competitive.

Several participants provided comments on the "Other" selection, some of which illustrate the competition between larger, more national, firms and regional firms. We offer those in list format, below. Each comment was in response to the question of "what presents the most competitive pressure?"

- *Bigger firms*
- *National firms in local markets*
- *Plaintiff law firms poaching defense talent*
- *Smaller regional firms that can operate on shoestrings, cut corners, and provide inferior legal services*
- *Regional firms*
- *Attorney and staff hiring (challenges)*
- *Technology advances*
- *20 percent increase in work as "national" firms lose work due to poor performance*
- *Firms that have seen growth; the market is more consolidated than before Covid*

## Firm Economics

### Invoice Adjustment Levels

We asked respondents to estimate the aggregate percentage of general invoice write-downs, post-appeal, that their firms are subject to annually.



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The average response to this question was 9.5 percent; the median response was 8 percent. Both numbers are higher than those reported in the 2020 Defense Counsel Study (seven percent), and higher than the percentages reported by insurance claims executives.

Percentage of Invoice Write-downs, Post-Appeal, Annually	Defense Counsel	Litigation Executives	Defense Counsel	Litigation Executives
	2024	2023	2020	2019
	%	%	%	%
<b>Average</b>	<b>9.5</b>	<b>5.0*</b>	<b>7.0</b>	<b>6.0</b>

\*Note that in the 2023 CLM Litigation Management Study we used ranges (and percentages of respondents who fell within those ranges), so the 5 percent listed is a calculated average using range mid-points. Given the nature of the ranges offered to participants in the 2023 Study, the average write-downs would technically fall between 4 to 5 percent.

The 9.5 percent write-down figure provided by attorneys in this study represents the highest number we’ve seen to date. It would be a logical reason for payment issues being identified as the number one cited recurring friction point with insurance carrier clients.

### Appeal Thresholds

Firm Threshold For Appealing Adjusted Invoices	All Respondents %
<b>There is no general standard; every attorney uses his or her own discretion</b>	<b>45</b>
<b>Cost benefit analysis performed on each adjustment</b>	<b>27</b>
<b>Every adjustment is appealed</b>	<b>20</b>
<b>The adjustment must be over a predetermined amount</b>	<b>6</b>
<b>No adjustments are appealed</b>	<b>2</b>

Almost half (45 percent) of respondents reported an environment where each attorney uses his or her own discretion on whether to appeal an adjustment.

One out of five (20 percent) report that they appeal every adjustment.

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**Assessment of Invoice Adjustments Made**

Most attorneys find the invoice adjustments made by insurance company clients to be subjective and/or inconsistent.

Do invoice adjustments feel subjective or objective to you?	All Respondents %	Non-Associates %	Associates %
<b>Subjective and/or inconsistent</b>	<b>78</b>	<b>85</b>	<b>62</b>
<b>I don't know</b>	<b>14</b>	<b>9</b>	<b>26</b>
<b>Objective. The are usually clear, objective guideline violations</b>	<b>8</b>	<b>6</b>	<b>12</b>

Non-associates feel more strongly than associates that the adjustments made to their invoices are subjective and/or inconsistent. Associates are twice as likely to find adjustments to be objective, clear, violations of billing guidelines (12 percent vs. 6 percent). At the same time, a full quarter of the associates said they “didn’t know” when it came to the objectivity of invoice adjustments made by their clients.

When compared to survey results from 2020, we saw no appreciable difference in the percentage that find adjustments to be subjective and/or inconsistent. That said, it is still a very high percentage – more than three quarters of all attorneys.

Do invoice adjustments feel subjective or objective to you?	Defense Counsel 2024 %	Defense Counsel 2020 %
<b>Subjective and/or inconsistent</b>	<b>78</b>	<b>76</b>
<b>I don't know</b>	<b>14</b>	<b>6</b>
<b>Objective. The are usually clear, objective guideline violations</b>	<b>8</b>	<b>18</b>

In addition, the overall percentage of attorneys from 2020 to 2024 who feel that adjustments are objective fell to half of what it had been in 2020.



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**Size of Billing Departments**

Billing departments continue to grow. About half of the respondents said their billing departments were larger in 2020, and about half said this in 2024. Only one in eight (13 percent) reported that their billing department is smaller when compared to three years ago.

Size of Billing Department (In proportion to number of attorneys)	Defense Counsel 2024 %	Defense Counsel 2020 %
<b>Larger</b>	<b>50</b>	<b>52</b>
<b>Smaller</b>	<b>13</b>	<b>5</b>
<b>About the same</b>	<b>38</b>	<b>43</b>

**Pain Index – Dealing with Invoices**

Not unexpectedly perhaps, non-associates find the process of submitting invoices and dealing with invoice adjustments to be more painful than associates do. Still, it is a painful process for both groups of attorneys.

While the average pain score for non-associates was 84 out of 100, the most common response in fact was 100 out of 100, which is exceptional. Imagine you’re in the emergency room and the doctor asks you to rank your pain on a scale of 1 to 10; they’d take your response of 10 seriously. Even a response of 8.4 would get their attention.

Pain Index Submitting invoices Dealing with Adjustments	All Respondents (_/100)	Non- Associates (_/100)	Associates (_/100)
<b>Average</b>	<b>80</b>	<b>84</b>	<b>66</b>
<b>Median</b>	<b>86</b>	<b>100</b>	<b>71</b>

The significance of these scores is further illustrated by the significant increase from 2020 to 2024 in the responses to this question. The pain level for non-associates rose from 50 out of 100 to 84 out of 100, an increase of 68 percent. The pain score for all attorneys rose 43 percent.

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Pain Index Submitting invoices Dealing with Adjustments	Defense Counsel 2024 (_/100)	Defense Counsel 2020 (_/100)
<b>Average for all respondents</b>	<b>80</b>	<b>56</b>
<b>Average for Non-Associates Only</b>	<b>84</b>	<b>50</b>

### Average Payment Times

Unfortunately, our survey instrument in 2024 had a significant error in it, in that it omitted the important payment timeframe of 31-59 days as a multiple-choice selection option. It simply wasn't listed as an option for respondents to choose. As a result, it is difficult to draw too much information from this overall graphic.

Average accounts receivable Insurance Clients	All Respondents %
<b>30 days or less</b>	<b>17</b>
<b>60-90 days</b>	<b>67</b>
<b>90+ days</b>	<b>17</b>

While almost seven out of 10 respondents (67 percent) chose 60-90 days as an average payment time frame, we simply don't know how many would have selected 31-59 days if that option had existed for them. The 2020 results would suggest that only 10 percent or so of attorneys are paid within the 30–60-day period, but we just do not know.

We did observe that the relatively small percentage of attorneys paid in 30 days or less fell from 17 percent in 2020 to less than one out 10 (8 percent) in 2024.

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<b>Average Payment Times - Insurance Clients</b>	<b>Defense Counsel 2024 %</b>	<b>Defense Counsel 2020 %</b>
<b>30 days or less</b>	<b>8</b>	<b>17</b>
<b>30-60 days</b>	<b>Survey Error</b>	<b>10</b>
<b>60-90 days</b>	<b>71</b>	<b>66</b>
<b>90+ days</b>	<b>20</b>	<b>7</b>

Similarly, the percentage now being paid in 60-90 days rose from 66 percent to 71 percent; however, again, we don't know whether that is a function of the 2024 survey instrument missing a time frame.

### Pain Index – Invoice Payment Times

What we do know is that the pain of payment duration (i.e., waiting for payment) has gone up when compared to 2020 results.

For non-associates it is 32 percent more painful; for all attorneys it is 20 percent more painful. It appears to hurt a lot more now than it did four years ago. It is certainly not getting better.

<b>Pain Index Waiting for Invoice Payment</b>	<b>Defense Counsel 2024 (___/100)</b>	<b>Defense Counsel 2020 (___/100)</b>
<b>Average for all respondents</b>	<b>67</b>	<b>56</b>
<b>Average for Non-Associates Only</b>	<b>70</b>	<b>53</b>

## About the Future

### Career Satisfaction

For the first time in these studies, we asked about career satisfaction. The specific question read, “How would you describe your overall career satisfaction (i.e., how rewarding do you find your work) when it comes to practicing as an insurance defense attorney?” We provided a scale that ranged from “Pretty Dismal – not rewarding at all” to “Exceptionally rewarding – I love it.”

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Overall Career Satisfaction	All Respondents (_/100)	Non-Associates (_/100)	Associates (_/100)
<b>Average</b>	<b>63</b>	<b>61</b>	<b>63</b>

We saw no appreciable difference between associates and non-associates in their answers to this question. We are not experts in happiness scores and really leave the interpretation of these scores to each individual reader. It will be interesting to compare these scores with future studies.

However, and simply for comparison purposes, one large (global) data happiness study (Ipsos; 2019) identified that the global happiness average is a 64 out 100. In that study, Australia and Canada scored an 86, the U.S. scored a 79, and Spain and Argentina scored a 46 and a 34, respectively. Compared to the scores given in that study, insurance defense attorneys score somewhere between Serbia (61) and Poland (71).

### Would Recommend This Career

On a more serious note, perhaps, we also asked, “How likely would you be to recommend to a graduating law student that they join an insurance defense firm?” Answer choices ranged from, “Absolutely not!” to “Without reservation.” This answer, in our view, has important implications to the talent acquisition challenges of defense firms broadly.

The average score was 53 out of 100. We saw no appreciable difference between associates and non-associates in their response.

Our own interpretation of these answers is that they were lukewarm. But, again, we are not experts in scores such as these, so we leave it to each individual reader to make their own judgement.

Would Recommend This Career	All Respondents (_/100)	Non-Associates (_/100)	Associates (_/100)
<b>Average</b>	<b>53</b>	<b>53</b>	<b>54</b>

We do note, however, that on the traditional Net Promotor Score scale, those giving scores of 9 or 10 (on a 1-10 scale) are promoters, those giving scores of seven or eight are called passives, and those giving scores of six or less are referred to as detractors. These scores would accordingly fall in the detractor classification, or at best a very low passive.

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### Difficulty Meeting Technology Requirements

Respondents were asked to rank how difficult it is for their firm to “keep up with, and maintain, technology standards and tools required by your clients. Answer choices ranged from, “It’s very difficult” (score of 1) to “Not difficult at all” (score of 100)

The average response scored a 66 out of 100.

<b>Difficulty Keeping Up With Client-Required Technology Requirements</b>	<b>All Respondents %</b>	<b>Non-Associates %</b>	<b>Associates %</b>
<b>Average</b>	<b>66</b>	<b>64</b>	<b>67</b>

### Fully Staffed?

We asked whether respondents consider their firm to be fully staffed with regards to attorneys. Only one third (35 percent) said that they are fully staffed. Two thirds said they are not.

We have not asked this question in prior studies, so we have no comparison points to view. However, we view this to be a mildly alarming response overall, and it seems to affirm the anecdotal reports we have received that it is difficult to find and retain good insurance defense attorneys. This is a finding of direct relevance to claim and litigation executives as well.

<b>Are you fully staffed with attorneys?</b>	<b>All Respondents %</b>	<b>Non-Associates %</b>	<b>Associates %</b>
<b>Yes</b>	<b>35</b>	<b>31</b>	<b>46</b>
<b>No</b>	<b>65</b>	<b>69</b>	<b>54</b>

### Difficulty in Attracting Attorneys

We asked, when compared to three years ago, how difficult it is to “attract the right kind of attorney talent” to the firm.

Thirty-six percent of associates were not sure of the answer to this this question (which seems logical) so we focused only on those who did know, or who had an opinion on the topic.

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<b>Difficulty in Attracting New Attorney Talent (vs. 3 Years Ago)</b>	<b>All Respondents %</b>	<b>Non-Associates %</b>	<b>Associates %</b>
<b>Much, much more difficult</b>	<b>66</b>	<b>71</b>	<b>47</b>
<b>A little more difficult</b>	<b>25</b>	<b>22</b>	<b>41</b>
<b>About the same</b>	<b>9</b>	<b>7</b>	<b>13</b>

More than nine out of 10 (91 percent) find it much, much more difficult or a little more difficult to attract talent. Two thirds of all attorneys (66 percent) put themselves in the “much, much, more difficult” category. More than seven out of 10 (71 percent) of non-associates said this.

This is clearly a big issue, and one with relevance to our entire litigation management community.

### Top Challenges in Recruiting Attorneys

When it comes to the why of difficulty in recruiting attorneys, associates and non-associates alike were aligned on two inter-related reasons.

First, there is significant competition from other firms. Second, there are simply fewer attorneys out there with the right talent. Scarcity of resources is driving more competition for the talent that is available.

<b>Top Challenges to Recruiting New Attorneys</b>	<b>All Respondents</b>	<b>Non-Associates</b>	<b>Associates</b>
<b>Price and cost. Salary competition from other firms and/or practice areas makes it very hard to attract talent.</b>	<b>2.4</b>	<b>2.4</b>	<b>2.3</b>
<b>Fewer attorneys with needed talent. There are simply fewer attorneys with the right talent out there.</b>	<b>2.2</b>	<b>2.2</b>	<b>2.1</b>
<b>Other. Please describe below.</b>	<b>2.1</b>	<b>2.1</b>	<b>0.0</b>
<b>Specifically, fewer attorneys want to go into insurance defense litigation.</b>	<b>1.8</b>	<b>1.8</b>	<b>2.0</b>
<b>Fewer attorneys want to go into litigation.</b>	<b>1.6</b>	<b>1.6</b>	<b>1.5</b>
<b>Candidates are looking for flexible work/remote work schedules that we can't provide.</b>	<b>1.6</b>	<b>1.4</b>	<b>2.1</b>
<b>Inertia. There is inertia among attorneys that stops them from seeking new employment</b>	<b>1.5</b>	<b>1.4</b>	<b>2.0</b>

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For associates, the third most popular reason was that candidates are looking for flexible and remote work schedules that their firms can't provide. For non-associates, the third most common response was Other, which they described in a few ways. We have listed those Other responses here, in narrative form:

- *The pressure of billing sufficient billable hours prevents good attorneys from working in this field*
- *Difficult to attract new talent. Most experienced insurance defense lawyers have been doing this a long time and are partner level and don't want to leave their firm. It's hard to find associates at the 3–5-year level.*
- Lack of ambition and work ethic in the majority of attorneys available on the market
- Low rates lead to low compensation. Low compensation leads to lack of ability to hire and RETAIN lawyers
- Increasing client demands on attorneys that distract from use of legal skills
- Fewer attorneys want to put in time and effort to excel in the field
- Low insurance rates lead to higher turnover as we train associates who then move to higher paying non-insurance defense firms
- Carrier guidelines limit ability for younger attorneys to work on files
- Lower bar passing rates over several years means less attorneys in the workforce
- Overall (un)willingness to meet the grind necessary to succeed at insurance defense work
- New graduates do not want to put in the effort it takes to be a trial attorney
- Candidates seem to feel that this is a 9 to 5 job, which it is not

### Changes in Turnover

We asked, “Generally speaking, and compared to three years ago, is your firm experiencing more or less attorney turnover?”

We excluded from the results 17 percent of attorneys who did not know the answer to this question.

Among those who knew, more than half (55 percent) reported more turnover when compared to three years ago. Associates gave a higher number yet, at 65 percent.

Less than one in 10 (8 percent) reported less turnover.



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<b>Attorney Turnover (vs. 3 Years Ago)</b>	<b>All Respondents %</b>	<b>Non- Associates %</b>	<b>Associates %</b>
<b>More</b>	<b>56</b>	<b>55</b>	<b>65</b>
<b>Less</b>	<b>8</b>	<b>11</b>	<b>0</b>
<b>About the same</b>	<b>35</b>	<b>35</b>	<b>36</b>

### Challenges to Retaining Attorneys

We were curious what respondents would identify as their primary challenges in terms of trying to retain the attorneys they have. We provided a list of possible choices and asked participants to identify the top three.

<b>Top Challenges to Retaining Attorneys</b>	<b>All Respondents</b>	<b>Non- Associates</b>	<b>Associates</b>
<b>Price and cost. Salary competition from other firms and/or practice areas makes it very hard to retain talent.</b>	<b>2.5</b>	<b>2.5</b>	<b>2.4</b>
<b>Attorneys dislike dealing with carriers and their billing and litigation management guidelines.</b>	<b>2.1</b>	<b>2.1</b>	<b>2.0</b>
<b>Fewer attorneys want to stay in litigation.</b>	<b>1.9</b>	<b>1.8</b>	<b>1.9</b>
<b>Specifically, fewer attorneys want to stay in insurance defense litigation.</b>	<b>1.8</b>	<b>1.8</b>	<b>1.9</b>
<b>Lack of mentorship</b>	<b>1.8</b>	<b>1.8</b>	<b>1.7</b>
<b>Other (please describe below)</b>	<b>1.7</b>	<b>1.6</b>	<b>2.0</b>
<b>Candidates are looking for flexible work/remote work schedules that we can't provide.</b>	<b>1.7</b>	<b>1.5</b>	<b>2.3</b>
<b>Attorneys don't fit in well with the firm's culture or interpersonal relationships.</b>	<b>1.6</b>	<b>1.6</b>	<b>1.7</b>
<b>Lack of growth opportunity</b>	<b>1.5</b>	<b>1.4</b>	<b>1.8</b>

Both associates and non-associates identified price and cost as the top reason. The second reason identified by non-associates (and second overall in the scoring) is more alarming. The reason selected was “Attorneys dislike dealing with carriers and their billing and litigation guidelines.” This should be a finding of relevance to both law firm leaders and to claim and litigation executives.

To complicate matters for firms, the second top challenge to retaining attorneys given by associates was that “Candidates are looking for flexible work / remote work schedules that we can't provide.”



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The third greatest challenge identified by non-associates (and third also in the overall ranking) was that “Fewer attorneys want to stay in litigation.” This too should be of concern to both law firm leaders and claim and litigation executives.

### Top Challenges – Next Five Years

We asked participants to indicate what they believe are the top challenges for insurance defense law firms over the next five years. We provided a list of possible challenges and asked participants to identify their Top Three challenges.

In doing so we also provided an “Other” category, which many non-associates chose to use as their “top” challenge. While many of the reasons given could be reclassified into some of the pre-existing listed challenges, we chose not to do so, and instead list a small sample of those comments here in bullet-point form.

#### Top Other Challenges Listed by Participants

- *Relatively low pay for insurance defense attorneys*
- *Lack of experienced trial counsel*
- *The retirement of trial attorneys and the inability to replace them with new trial attorneys since the clients will not approve young attorneys to try cases and thus get experience*
- *High jury awards leading to attorneys becoming disenfranchised with the system and leaving insurance defense for plaintiff work, other areas of the law, or the legal profession all together*
- *True trial lawyers are a dying breed*
- *Unrealistic expectations with bill cutting, staffing restrictions, and rates*

Top Challenges for Firms In the Next 5 years	All Respondents	Non-Associates	Associates
Other	2.4	3.0	0.0
Low Rates	2.3	2.4	2.0
Hiring and Retention of new attorneys	2.1	2.1	2.5
More aggressive bill adjustment and audit	2.0	1.9	2.3
Technology advancements, such as artificial intelligence	1.7	1.5	1.8
Alternative Legal Service Providers	1.6	1.5	1.8
Expansion of staff counsel operations at insurance companies	1.6	1.6	1.5
Unfair AFA programs	1.2	1.3	1.0
Cyber security costs	1.2	1.3	1.1

As the chart above reflects, the second top challenge identified by non-associates was “low rates.” For associates, the second top challenge is “the hiring and retention of new attorneys.”

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The third top challenge identified by non-associates is “the hiring and retention of new attorneys,” while for associates the third top-challenge was “more aggressive bill adjustment and audit.”

Viewed in another way, the top challenges identified by both groups of attorneys seem inter-related. Scoring was not dramatically different for the top 3 challenges; however, these three items ranked well above the other challenges listed.

**Non-Associates**

Low Rates  
Hiring and Retention  
More aggressive bill audit

**Associates**

Hiring and Retention  
More aggressive bill audit  
Low rates

### **Advice from Counsel**

No extensive survey of this magnitude is complete without the opportunity to provide advice. To that end, we designed the last question as an open-text inquiry that read as follows:

*“If you could give any general advice to senior claims and litigation executives across our industry, what would you say? What should they be doing to improve relationships with outside counsel? Or to secure better outcomes on cases assigned to your firm? Or to control costs effectively? Or on any topic you wish to give advice on...”*

Participants provided a great number of comments, which we would categorize as insightful, heartfelt, and well-meaning. There is a lot of good advice in this commentary, and we encourage all readers of this Report to review these comments carefully.

A full list of these comments can be found in the Appendix.

## Please Thank Our Sponsors

**We thank each of the Study Sponsors whose contributions have made this Study possible.** Each organization is an important thought-leader within the litigation management community we are all a part of. We encourage you to know about them, and to thank them for their generous support of initiatives like this one.

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## Further Questions

A copy of this report can be obtained, without charge, by writing to [taylor.smith@suite200solutions.com](mailto:taylor.smith@suite200solutions.com), or by asking any of the Study's Sponsors (listed above) for a copy.

### About The CLM

CLM is dedicated to supporting the needs of claims and litigation management professionals. Since 2007 they have provided their growing membership of over 55,000 people with opportunities to expand their knowledge, build their personal brand, and advance their careers through continuing education, networking events, content, thought leadership, and designations. CLM has been a proud affiliate of The Institutes since 2018. More information can be found at [theclm.org](http://theclm.org).

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Questions about this Study may be directed to: [Taylor Smith | President | Suite 200 Solutions | 224-212-0134 | \[taylor.smith@suite200solutions.com\]\(mailto:taylor.smith@suite200solutions.com\)](#)



## APPENDIX

### Study Methodology

This Study was comprised of 91 questions classified into the following categories:

1. About You (6 questions)
2. About Your Practice (12 questions)
3. About Your Firm (18 questions)
4. About Client Relationships and Firm Performance (15 questions)
5. About Your Clients (9 questions)
6. About Philosophy (13 questions)
7. Firm Economics (8 questions)
8. About Challenges and the Future (10 questions)

Almost all questions were formatted as multiple choice, including several forced-binary questions. Several questions called for priority rankings.

Recognizing that this Study is a follow-up to the 2020 CLM Defense Counsel Study, we worked to leave many similar questions in place. However, we added several topics, altered scoring scales, and framed several questions differently to solicit more insight. As such, study-to-study comparisons are difficult in some areas and we have highlighted that fact where necessary.

All respondents were advised that the use of estimates was acceptable when responding to questions that called for numerical answers. As a result, certain numerical answers differed from attorney to attorney within the same law firm. This was consistent with our intent, however, as our desired focus was on capturing sentiments at the individual attorney level, and not necessarily at a firm or corporate level.

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**Competitive Firm Attributes**

A Full list of competitive attributes listed by Associates, Non-Associates, and the combined data pool.

<b>Associates Only</b>		<b>Non-Associates</b>	
Expertise	2.54	Expertise	2.61
Culture	2.25	Trial Skills	2.09
Trial Skills	2.00	Culture	1.97
Assessment and Resolution	2.00	Assessment and Resolution Skills	1.81
Technology	1.90	Efficiencies	1.80
Diversity	1.89	Metrics	1.77
Mentorship and Training	1.77	Process	1.66
Flexible Work Schedules	1.73	Flexible work schedules	1.56
Efficiencies	1.71	Mentorship and Training	1.50
Process	1.70	Technology	1.48
Metrics	1.44	Diversity	1.45

<b>All responses</b>	
Expertise	2.62
Trial Skills	2.08
Culture	1.98
Assessment and Resolution Skills	1.85
Efficiencies	1.79
Process	1.72
Metrics	1.68
Diversity	1.68
Flexible work schedules	1.58
Technology	1.57
Mentorship and Training	1.56

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**Recurring Friction Points**

A full list of insurance client recurring friction points listed by Associates, Non-Associates, and the combined data pool.

<b>Associates Only</b>	
Client responsiveness issues	3.91
Rate Issues	3.57
Payment Issues	3.53
Client inflexible on staffing needs; does not appreciate hiring / retention challenges	2.85
Clients hold unrealistic expectations	2.79
Hampered in my ability to provide the best defense	2.76
Conflict of Interest Issues	2.75
Client inflexible on staffing needs; does not appreciate hiring / retention challenges	2.68
Clients don't really seem to value my work	2.67
Personality conflicts	1.80

<b>Non-Associates</b>	
Payment Issues	4.25
Rate Issues	3.77
Client responsiveness issues	2.85
Client inflexible on staffing needs; does not appreciate hiring / retention challenges	2.82
Clients don't really seem to value my work	2.65
Conflict of Interest Issues	2.64
Clients hold unrealistic expectations	2.53
Hampered in my ability to provide the best defense	2.46
Clients don't provide objective feedback	2.36
Personality conflicts	2.00

<b>All responses</b>	
Payment Issues	4.14
Rate Issues	3.75
Client responsiveness issues	3.16
Client inflexible on staffing needs; does not appreciate hiring / retention challenges	2.80
Conflict of Interest Issues	2.67
Clients don't really seem to value my work	2.65
Clients hold unrealistic expectations	2.62
Hampered in my ability to provide the best defense	2.53
Clients don't provide objective feedback	2.47
Personality conflicts	1.91

How Does Your Firm Market – “Other” Responses

<b>How Do You Market and Distinguish Your Firm?            “Other” Responses</b>	
<b>Networking</b>	<b>Maintain personal connections with clients</b>
<b>Use our website to drive traffic, promoting attorney (i.e., super lawyers, best lawyers, etc.)</b>	<b>Business Cards</b>
<b>Every phone call with a client or carrier is a marketing event</b>	<b>Client relationships, including “face to face” interaction with carrier reps</b>
<b>Doing good work on a consistent basis</b>	<b>One on one connections</b>
<b>Sharing performance data on a quarterly basis</b>	<b>Results</b>
<b>Community Involvement</b>	<b>Peer marketing</b>
<b>We share our metrics capture and abilities with prospective clients</b>	<b>We have certain internal processes that other firms simply do not have</b>
<b>Only one person is permitted to market</b>	<b>Social media and industry functions</b>

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Overall Firm Performance Metrics

<b>Metrics Used to Measure Firm Performance</b>	<b>All Respondents %</b>	<b>Non-Associates %</b>	<b>Associates %</b>
<b>Positive outcomes (defense verdicts, successful motions, dismissals, etc.)</b>	<b>63</b>	<b>66</b>	<b>56</b>
<b>Process and reporting compliance</b>	<b>57</b>	<b>58</b>	<b>50</b>
<b>Billing efficiency</b>	<b>56</b>	<b>56</b>	<b>56</b>
<b>Growth or decrease in client assignments</b>	<b>52</b>	<b>55</b>	<b>42</b>
<b>Cycle time</b>	<b>46</b>	<b>50</b>	<b>29</b>
<b>Invoice reduction percentages</b>	<b>45</b>	<b>50</b>	<b>29</b>
<b>Indemnity outcome (by type of case)</b>	<b>19</b>	<b>22</b>	<b>6</b>
<b>Cost to indemnity ratios</b>	<b>11</b>	<b>12</b>	<b>6</b>
<b>None of these</b>	<b>9</b>	<b>9</b>	<b>8</b>

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Metrics Used to Measure Individual Attorney Performance

Metrics Used to Measure Individual Attorney Performance	All Respondents %	Non-Associates %	Associates %
Aggregate billable hours	87	91	82
Timeliness of billing entries	68	70	61
Positive outcomes (defense verdicts, successful motions, dismissals, etc.)	57	56	63
Invoice reduction percentages	51	55	39
Aggregate fees collected	48	59	13
Process and reporting compliance	46	47	41
Mentorship	40	45	26
Complexity of matters handled	40	42	32
Marketing Activity	37	44	13
Billing efficiency	36	37	33
Firm citizenship	33	38	17
Cycle time	38	27	24
Indemnity outcome (by type of case)	11	12	9
Cost to indemnity ratios	6	7	2
None of these	3	3	4



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Reasons for “Later Than Necessary” Resolutions

	Non-Associates
Plaintiff counsel is not motivated to settle in a timely way	2.4
Inability of the plaintiff counsel to appropriately manage their client	2.2
Difficulty in obtaining the necessary information to resolve the matter	1.9
Defense counsel is not motivated to settle in a timely way	1.9
Other	1.8
The insurance carrier creates settlement obstacles	1.7
Insurance carrier often not focused on resolution even though the case should be resolved	1.7
Insurance carrier slow to provide the requisite authority to settle the matter	1.6
Policyholder issues can slow down the process	1.6

	Associates
Other	3.0
Inability of the plaintiff counsel to appropriately manage their client	2.4
Difficulty in obtaining the necessary information to resolve the matter	2.0
Plaintiff counsel is not motivated to settle in a timely way	2.0
The insurance carrier creates settlement obstacles	1.6
Policyholder issues can slow down the process	1.5
Insurance carrier slow to provide the requisite authority to settle the matter	1.4
Insurance carrier often not focused on resolution even though the case should be resolved	1.3
Defense counsel is not motivated to settle in a timely way	1.0

	All Respondents
Plaintiff counsel is not motivated to settle in a timely way	2.3
Inability of the plaintiff counsel to appropriately manage their client	2.2
Difficulty in obtaining the necessary information to resolve the matter	2.0
Other	2.0
Defense counsel is not motivated to settle in a timely way	1.8
The insurance carrier creates settlement obstacles	1.7
Insurance carrier often not focused on resolution even though the case should be resolved	1.6
Insurance carrier slow to provide the requisite authority to settle the matter	1.6
Policyholder issues can slow down the process	1.5



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Legal Billing Rates

Legal Billing Rates Check those statement with which you agree	All Respondents %	Non- Associates %	Associates %
<b>Low rates in this industry sector adversely affect the insurance defense bar</b>	<b>74</b>	<b>71</b>	<b>57</b>
<b>I am willing to lose a client if they will not agree to a rate increase that I believe is fair</b>	<b>54</b>	<b>61</b>	<b>28</b>
<b>My firm is paid competitively compared to other insurance defense firms</b>	<b>48</b>	<b>48</b>	<b>40</b>
<b>Generally, higher rates translate to a client getting better attorneys and better results</b>	<b>47</b>	<b>48</b>	<b>43</b>
<b>Insurance defense firms should get paid the same rate as counsel for "private" litigants</b>	<b>43</b>	<b>46</b>	<b>32</b>
<b>Carriers are willing to allow rate differences by geography for more expensive markets</b>	<b>27</b>	<b>32</b>	<b>9</b>
<b>My hourly rate fairly compensates me for my experience and skillset</b>	<b>23</b>	<b>16</b>	<b>49</b>
<b>Carriers respond favorably to requests for rate increases due to the inflationary pressures of the past three years</b>	<b>15</b>	<b>19</b>	<b>2</b>
<b>Generally, carriers appreciate the scarcity of experienced trial attorneys and are willing to pay appropriate rates accordingly</b>	<b>14</b>	<b>15</b>	<b>13</b>
<b>I am willing to lower my hourly rate to get more work</b>	<b>6</b>	<b>6</b>	<b>6</b>

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### Advice To Litigation Executives

**Q: “If you could give any general advice to senior claims and litigation executives across our industry, what would you say? What should they be doing to improve relationships with outside counsel? Or to secure better outcomes on cases assigned to your firm? Or to control costs effectively? Or on any topic you wish to give advice on...”**

I think the way billing guidelines are set up hamstring attorneys and force them to play by the billing game rules, rather than focus on quality legal work. For example, an attorney may be unwilling to do something that would be beneficial for the case simply because they cannot bill for it or cannot spend sufficient time on it or need approval first taking away the attorney's ability to be nimble and move with the case.

Engage and communicate often with your outside counsel.

Please understand that this is a partnership, actively communicate your expectations and goals with your attorney throughout the life of a file. We are here to help you and our mutual clients to the best of our ability.

Provide reviews of the attorneys with whom they work and/or provide general feedback when files are closed.

Listen to the recommendation of the attorney.

Low rates lead to fewer attorneys working on more cases and less actual legal work being done.

Trust local counsel regarding evaluation of potential verdicts and liability.

Establishing claim/executive teams of at least two people is essential as the inability to gain a response for authority on strategy or settlement can be crucial to a case. A conversation with claims rep and billing companies regarding cuts to attorney's work would benefit all as attorney waste time that is essential to a case when having to appeal cuts often made to meet bottom line reductions. It is so important to trust and allow attorneys to do their job and not be hindered on every task to gain approval from someone without a legal background.

Attorneys seem to be leaving insurance defense firms because they are not able to compete with salaries from other industries, and seeing the large awards and settlements from the Plaintiffs side leads to changing points of view and potential shift to working on the Plaintiff side. Blanket bill cutting does make this more likely, and if it is easier to reduce cuts and increase billing rates that allow for salary increases, it will help preserve relationships and keep attorneys in the insurance defense

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industry. Of the risks, due to millennials becoming dominant in the jury pool and their natural distrust of companies leading to higher verdicts, it becomes more tempting to pay off the risk, but this could lead to inexperienced insurance defense attorneys leading to even higher verdicts. We need to continue to try cases, or the cost of settlement will continue to rise and the lack of experience trial attorneys will decline because of many older ones retiring. If we can focus on trying cases and selecting cases to try, we can improve the relationships, and by cherry picking these cases during discovery, and paying for the appropriate work on those cases, this will lead to stronger ties with better results for the carriers in both long and short term.

Hire someone it only looking to achieve results in this case but results that could positively impact future cases.

Work with counsel. When they ask for the policy, send the entire policy with all forms and endorsements. Don't make them chase you. Don't waste your attorney's time by forcing them to use your software to manage your file. If you are going to demand this, pay for it. If you are going to do this, do it in a way that doesn't require the attorney to do duplicative work to maintain their own file. Respect your counsel: pay for the work they do, get them the information they need, work with them, help them help your company and your insured rather than standing in the way.

We are a team. Our lines of communication need to be as open as possible. If you hate the case let's dump it. If you want to roll the dice let's suit up. However, we need to begin with the end in mind. We don't always have complete information, but we generally know early on where we stand, let's decide early and together where we would like to go. Things can change along the way but let's make sure we have the same destination.

I understand that the bottom line is incredibly important, and that, unfortunately, we live in a world where billing reviews are probably necessary to eliminate excessive overbilling or dishonest reporting of time. I also understand that lower legal costs can lower customer pricing and rates. However, I feel that more focus should be placed on relationships with individual firms and attorneys. When our bills are cut by an outside auditing firm without any understanding of the underlying case, it suggests that all legal services are generic or cut and dry, without considering the circumstances, complexities or issues with the case. However, insurance clients certainly don't want their customers' cases handled with the same cookie cutter approach. I, as an attorney, would never tell a client that I won't file motions for summary judgment because they usually aren't granted, or that I won't do something because it's not worth my time. I will assess each case individually and offer to do whatever is necessary to defend my clients in the best and most efficient way possible. When you hire a mechanic to fix your car, you wouldn't just pay for the parts of the bill that you think were necessary, and then tell the mechanic that he or she can file an appeal of your payment decision.

They should read and follow through with legal recommendations outlined in our defense plans. Many times, something as simple as sending a copy of surveillance footage or an incident report does not get done because the claims professional didn't read the report but rather just checked it off as something to save to the file.

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Hire competent support staff Create a collaborative environment for attorneys Value employees and compensate them accordingly

Making sure claim adjusters are not understaffed and overwhelmed.

Some insurance providers cut the work of attorneys that only attorneys can bill for. There needs to be a better understanding of why an attorney or paralegal need to do work versus a secretary.

Lack of cooperation from insureds is a real problem and causes unnecessary delays and expense. Bringing the contractual obligations to cooperate to their insureds before assigning to defense counsel (and the ramifications for failing to do so), should make a big difference in expeditiously moving files to resolution.

More regular communication with defense counsel

Focus more attention on positive outcomes and less on process issues.

Be more responsive for requests asking for authority (experts, costs for records, settlement money, etc.)

Be more responsive.

Few young attorneys want to do this work. Low rates make it difficult to attract young attorneys willing to work long hours. Fewer and less attorneys are willing to put up with low rates, e-billing, and arbitrary write downs. Most reporting is little more than checking the box busywork that increases costs to carriers and frustrates defense counsel. Carriers need to value experienced claim reps.

The loudest and most visible lawyers are not often the best. Those who focus on marketing might seem to have the answers and be a good choice for panel counsel, but you can't work hard for your clients if you are constantly attending conferences and self-promoting. Give the quiet, hardworking lawyers a chance. Also, beware of lawyers, you can never get on the phone to discuss a question in the moment. Their unavailability may be because they rely on other lawyers to research and ghost write answers/advice that they then pass off as their own.

Don't issue guidelines that require certain work and then deduct the legal bills for it because it's either overhead or "paralegal work". Don't deduct bills for legitimate work because a non-attorney auditor thinks it's too much time. Set fair rates if you require quality work product and high-level attention. Understand that claims and defense counsel succeed better with a collaborative approach and not an approach dictated by claims. Don't add new attorneys to panels just because they can golf and network well. Be more inclusive in panel selections. Don't make attorneys report very frequently when there is nothing happening in a case.

Pay us what we deserve!

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Communicate expectations frequently. Do not expect work for free. Pay for the experience you need. Develop trusting relationships with the law firms you work with. If there is a basis for a lack of trust, move on. Be mindful of the law firms who simply process settlements with no independent legal considerations. You don't need a law firm to do that. Look for law firms that act as true advocates for your needs and the needs of your policyholders, rather than those that simply look to bill you to death. This includes some law firms on this panel.

Attracting and retaining young attorneys with 1-10 years of experience is made nearly impossible by the insurance industry's recalcitrance to raising defense counsel rates to merely keep pace with inflation. Your defense attorneys see your companies raising premiums by 10-30% and then must haggle over 3% rate increases. Talent with 5-15 years of experience is no longer leaving for competitor defense firms, they are becoming plaintiff's attorneys because the insurance industry has created a market where it is more lucrative, even on average, to sue them rather than defend them. Nuclear verdicts will continue to rise as the aging population of actual trial attorneys retires and dies without having trained successors, because the insurance industry has made it nearly impossible to hire those successors. The insurance industry must disabuse itself of the notion that saving legal costs on the front end is not costing it exponentially higher amounts on the indemnity side, particularly over the next 10-15 years.

Claims adjusters and management are at war with the very people who are hired to defend their policies and shareholders. The consistent attack on defense counsel is killing the insurance defense industry. This policy is absolutely suicidal for the insurance industry. But they don't care because by the time it all blows up in their faces, they will have moved onto other companies or will have retired.

Regular call for better understanding of litigation process

Let us do our jobs - help us, help you.

Appreciate that the counsel you hire are experts in specific practice and geographical areas. While we don't expect to be paid commensurate with private-hire firms, we expect to be compensated for our expertise. Understand that in a large firm with resources, you will almost certainly get more value and better results than hiring smaller regional firms, who can't match performance and experience.

try more cases - you're about to have a legion of attorneys in their mid-40s with no experience as senior partners age out

Trust defense counsel with recommended settlement and litigation strategies.

You get what you pay for. If you pay low rates, you are going to get lawyers who don't have opportunities to make significantly more money in other practice areas. Paying your trial lawyers \$250 /hr to go into a trial where 8 figure verdicts are possible is a joke. Rates should match the risk. If I am a volume operation accepting personal lines MVAs or homeowner claims, my rates are lower. If I am an operation trying your higher exposure cases, my rates should be at least double, more likely triple, what the front-line firms are getting paid because the risk is higher.

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The Audit system is designed to punish attorneys who work diligently on files. the auditors have no meaningful understanding between the complexities of any case. They treat a directors and officers claim the same as a simple car wreck. We are no longer valued partners but ditch diggers without any loyalty or relationship value.

The staffing requirements (such as no associate with less than 5 years of experience and the necessity of only letting pre-approved lawyers work on files) is a tremendous challenge.

In 10 years, the insurance industry will have very few qualified, experienced insurance defense lawyers. The industry cost cutting is cutting off your nose to spite your face. More and more insurance defense lawyers are either leaving the profession or switching to the plaintiff's bar. Rates are too low, we are not treated with respect by the insurance companies, and the legal environment is getting increasingly defense hostile. Why should I work so hard when my colleagues who are plaintiff's lawyers work half the time and are not treated badly by insurance companies?

Stop treating us like vendors. We are professionals who are damn good at our jobs. If you pay low rates, cut bills, and generally allow no time for strategy, collaboration, and training, you will have no lawyers left who can adequately litigate your case, to say nothing of actually trying the case. These types of practices are turning an entire generation of talented defense attorneys into plaintiff's attorneys.

You need to pay higher rates so you firms can recruit and, more importantly, retain good defense attorneys. The same is true of the sometimes overly burdensome reporting requirements.

Defense counsel are on "your team," so treat them that way. Economic pressures will drive your good defense counsel to the other side.

use the phone and not email to communicate with us

The industry should encourage relationships with outside counsel. So many of the carriers we act for have marketing departments encouraged to meet with Brokers, Underwriters, MGAs and develop business relationships, yet claim professionals are prohibited from having a cup of coffee with outside counsel. Personal rapport only helps build bridges between the advocates representing your insureds and those responsible for deciding whether to try or settle a case.

Appreciate the counsel who uses creativity to settle cases faster and more fairly. Reward collaboration with plaintiff's counsel when warranted. Not every case needs to be assigned to a "bulldog," and the skill set necessary to work well with your insureds and with opposing counsel to reach a resolution, which is usually in your insureds' best interests, is not always aligned with someone who can kick ass at trial. Use lawyers who have skills other than trial skills until trial becomes necessary.

Continued collaboration with firms who have advanced metrics monitoring and who demonstrate a commitment to nurturing long-standing relationships.

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I would urge them to make note of the attorneys that have significant trial experience and seek their advice on case outcomes and be willing to pay them what they are worth.

The industry must adjust the rate and manner of compensation of its top firms to avoid the risk of losing them.

If we don't start paying insurance defense lawyers more, we'll see exponential growth in firms' inability to hire and retain lawyers. Third party vendors are often helpful but are also often extremely detrimental to the goals of the carriers and the cases. For example, record retrieval companies cost more to request documents than our paralegals and their results are slower and often unsuccessful. We are also seeing increasing challenges from the Plaintiff's bar to these vendors securing HIPPA protected medical records (and the Plaintiff's bar is correct).

Please increase the billable rates so we can maintain a high caliber of attorney.

The practice of insurance defense has become much more challenging over the past 15 years. The consolidation of law firms has squelched innovation. Consolidation also results in a few of the "top" partners in law firms to gain a disproportionate share of the financial rewards, which in turn, has caused a lack of opportunity for growth for associates and partners resulting an exodus of many insurance defense lawyers and certainly resulting in fewer attorneys entering the insurance defense practice. I believe we are in the middle of a talent drought. Insurance companies have said for years they shouldn't bear the cost of training new lawyers, which I understand, but there is a need for an investment in talent for the future. Otherwise, quality, service, and outcomes will decline. Also, many adjusters seem to be micromanaged or second-guessed to the point where decisions cannot be made quickly resulting in lost opportunities for early resolution and resulting in increased indemnity and medical costs. Many adjusters are taught that the insurance defense lawyers are the "bad guy" and are just trying to bill as much as possible. I am certain there are greedy insurance defense lawyers out there, but the majority want to do a good job for the carrier and the insured while building long lasting relationships. Honestly, if I were a greedy lawyer, I would be a plaintiff's lawyer where the financial rewards are much greater.

Listen more to an experienced atty The low rates paid to firms in this area is making it harder to break even much less make a profit

Focus on retention of adjusters to allow for more of a relationship to be built with client and defense attorney. I feel that I've had a more difficult time connecting with individual clients in recent years due to high turnover rates. These relationships promote good work product, responsiveness, and general job satisfaction, all of which suffers to some extent when these relationships aren't there.

I find SO much value in having my adjuster on the phone and talking out the case with them in a collaborative type of way to solve whatever problem there is. Giving your attorney the feeling that we are all in the same foxhole and the attorney won't be shot from behind is by far the best thing you can do to strengthen your attorney who is daily taking slings and arrows for you.



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Senior claims and litigation executives would be well served by proactively engaging with law firms to identify ways that improve costs/results for clients in a manner that enhances (or does not diminish) profitability for law firms. Insurance defense firms operate on very small profit margins compared to non-insurance defense law firms who we must compete with for pay, hiring and retention of both legal professionals and administrative staffing. Every percentage point hit on a law firm's profitability is a big deal that adversely impacts efficiency, staffing, ability to pay competitively, attorney/legal staff/administrative recruiting and retention, and ability to effectively engage law firm personnel who desire to do insurance defense work.

Stop slicing bills; do not ask the attorney to do a project/task for which you will not compensate -if it is administrative, ask your own administrative team. Your attorneys want to serve you and obtain the best outcome for your insured/company. If you have issues with billing, speak to them.

Many insurance defense firms are facing significant staffing problems because of increased salary demands in the market. There is a necessity for rate increases to be competitive for hiring and keeping personnel. Rate changes need to become standard on an annual basis.

Trust us. We have your best interests at heart. Please do not make the relationship between attorneys and claims staff adversarial.

Don't just focus on metrics - litigation requires flexibility and personal relationships

Be careful of relying too heavily on metrics, even with "ordinary" types of cases. You hire outside counsel for their skill and judgments, which requires trust. Between downward pressure on rates, adjustments, art of time entry to avoid adjustments, and the litany of "non-attorney" task, it is apparent that many carriers and professional are not treating their outside counsel as business partners. All of this makes it more difficult to stem the tide on rising settlement values and defense verdicts because cases are not developed with the idea that they can be defended - they are just focused on an accountant's view of the "right" price.

Hold more face-to-face meetings

Good defense attorneys cost more. You get what you pay for.

We are all much busier post COVID. There is a lot of simmering anger in the population. Be flexible. Be practical.

Be more transparent in the data you are collecting on firms Have a banded rate structure based on market and type of work so it's not a guessing game whether firms are getting an optimal rate and it's not a race to the bottom Be transparent in goals for particular cases and what your optimal outcome is, trial, settlement, litigation up to a particular point Hold quarterly/semi-annual meeting with defense counsel on productivity and expectations

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There has been much talk over the past few years about the rise of nuclear verdicts. I believe the advent of Litigation management and billing guidelines, in conjunction with the strict bill review process, increases the risk of cases not being worked out properly, and thereby causing the potential of nuclear verdicts.

1. Recognize talent, inflation, and cost of living across all industries, and pay accordingly. Efficiency and indemnity results count; 2. Stop creating barriers to doing actual litigation work on files (authorization codes, too much reporting). Allow attorneys to do their jobs. 3. Don't be an adversary, be a collaborator (pay our bills, respect our experience, and don't create 'busy work' and focus on minutiae unrelated to getting the best result).

Get on a common litigation management platform and start to collect detailed data for immediate use in common metrics sharing and for future AI use.

How much do you think a defense firm should make? For instance, you watch Shark Tank and they are only interested in investing in companies that have 50% or 90% margins. What kind of margins do you think your defense firms should make? Like your defense firms should have net income or margins of what percent? What do you really think would be a fair margin for the defense firms you use? 10%? 20%? 30%? We would take any of those numbers! Your defense firms make very little money when associates are paid less than \$250 an hour. Volume does not help increase profit margins at all, rates need to be raised. Also, why don't you want your defense firms to make money? The plaintiff lawyers we go against make a ton of money, why don't you want to hire lawyers that are similarly compensated as their competition? An insurance executive would never hire a divorce lawyer who was only charging 1/10th of what his ex-wife's lawyer was charging. Or only 1% of the lawyer he was going against. But in insurance defense, it happens all the time. Probably not sustainable.

If you want partners in handling your claims, act like it. Show loyalty. Most annual dialog is structured about squeezing more blood out of the turnip.

Value outside counsel more by paying better and more competitive rates to those firms who provide excellent service and generate results. Allow associates to second chair trials so that there can be a next generation of trial lawyers. There will not be any seasoned defense trial lawyers when firms are not allowed to share in the cost of training them. Allow them to participate and learn, but not solely at the firm's expense. Avoid the industry urge to move to larger firms. Higher rates do not equal better results or better attorneys.

Insurance defense rates need to increase to allow firms to attract and retain better candidates. Moreover, the subjective reduction of bills adversely impacts the ability to represent clients while at the same time making the practice of an insurance defense firm profitable.

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More active adjusters; less tethered to reporting for the sake of reporting; more risk-tolerant / willing to take more cases to trial; more appreciative of excellent legal work / results; stop arbitrary bill cuts.

Subjective billing audits with respect to attorney time are the single most frustrating aspect of defense work. There is nothing like preparing for trial, only to see your time cut afterwards, when you've put in the effort, neglected your family, ignored your other files (which you now have to address), and had the ringing headache you get from the emotional drain and adrenaline release (win or lose) for the 2 days following the trial.

if you trust your lawyer, hire, and pay them fairly. if you don't trust them, do not hire them and challenge their time

Encourage a collaborative culture between claims and outside counsel, rather than an adversarial one.

There needs to be greater leeway in letting new attorneys work on files to develop more talent and the "next generation" of litigators.

The hourly rate for insurance defense does not reflect the talent, dedication and work ethic the attorneys who chose this field provide.

Become a partner with outside counsel on all issues. Do not be an adversary.

More communication.

Pay defense counsel fairly for the work we do. Stop nickel & diming invoices. We give the carriers a fair day's work and should be compensated accordingly.

Client expectations are unrealistic, especially given the low rates and billing requirements (e.g. only 2 billing attorneys per file).

Stop treating defense counsel as the enemy and a profit center!

The insurance industry/TPAs in claims seem to be understaffed. This often times creates delays in case handling and makes it more difficult to represent our clients effectively and efficiently.

Claims handlers could improve their understanding of the cases as they unfold and adapt their expectations accordingly. For example, if a case begins to develop bad facts or an early defense theory's viability becomes questionable, expectations must change. Likewise, they need to recognize that jurisdictions are different, so cases must be handled with those differences in mind.

The use of outside billing review companies has substantially impacted Firms in a negative way. The billing review rarely comes back without reductions and the reductions are based on archaic and arbitrary word choice. Insurance carriers that do not use billing review companies are much more pleasurable to deal with and they create a better relationship with the firms they rely upon to defend

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their insureds. Also, the carriers' continued push for lower rates and otherwise nickel and diming firms does not create the type of engagement carriers should want their firms to feel towards them.

The carriers and claims professionals with whom I have the best relationships are the ones that respect my legal expertise and treat me as a professional. There are many like this and they have my loyalty. I am a legal professional who has invested the majority of my life to studying the law, helping clients, and taking cases to trial. There is no more insulting thing that an insurance carrier can do than to cut my time off of my bill. Time cut off a bill is time that I do not spend with my family and time that I do not spend enjoying life because that time is spent doing my very best to defend your insureds. As trial attorneys, the cases we work on are with us every minute of every day. The constant thought, analysis and stress that takes place at the dinner table, while I'm mowing my lawn or when I am supposed to be on vacation, does not make it to a time sheet. Do not insult me by treating me like a commodity.

Mentor young associates Have realistic billing requirements Offer settlements early Have more support staff

We're here to help you and your insureds, and should not be considered part of the issue(s.)

Carriers should reduce the administrative burden around billing and collection. Carriers should look at firms as partners and not vendors. Panel selection and rate negotiation should be a claims or legal function and not belong to separate vendor management teams.

Reporting requirements need to be reworked overall. They are just onerous treatises that provide little value after the initial report. Updated reports should only be required to include relevant information and not be needed for every single step of the way or as often. It is micro-managing on a corporate scale that bogs down defense attorneys, especially young attorneys, leaving little time to mentor them and takes away for the actual defense work required for the file. Litigation is already stressful enough with numerous Court deadlines and myriad Court Rules and other requirements to comply with (e.g. discovery deadlines) without the ever-present Damocles sword of formulaic reporting requirements. Also, rates are too low. We cannot attract the proper talent and pay them competitively. That's why Plaintiff's firms are running laps around defense, and they are well aware of what we are tasked with and take advantage of that in litigation. Finally, billing cuts have started to feel punitive.

The best advice I could offer is to know your case and know your attorneys. Remember we are on the same team. We are here to protect your policy holders and make your job easier. Don't concentrate on the minutia. Don't be a "box checker". Every claim is different, and every client is different. Look at the cases with an eye towards what is best for the insured and in line with our policies and procedures. Also, don't hide behind your computer monitor. Pick up the phone and speak to your attorney and vice versa, speak to your claims professional. This is best when a collaborative process is maintained. It is never a one-way street.

Provide settlement authority early in the case and provide authority for retention of appropriate professionals and vendors if the case has a tight case management schedule.

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Please return my calls and emails. Let me know you are leaving and who the new claims rep will be.

Allow more flexibility regarding staffing. There are many cases that are complex that require two partners on a file or a partner and two associates. Further, many times paralegals may need to cover for each other, and this should not result in billing being cut because a different paralegal was on a staffing plan originally. With AFA programs, understand that the AFA is priced such that it will generally be handled by lower-level attorneys with the goal of moving the case to resolution. When very low settlement authority is given on these matters, this drives up cycle time and destroys profitability for the firm. Generally, rates have remained stagnant in the insurance defense industry despite rising salaries and expenses.

Understanding that this is the insurance business, controlling costs leads to short-sighted decisions. Putting profits before the quality of staff impacts this industry too much. You have overworked and under trained adjusters and law firms that are constantly fighting the next firm for attorney retention due to our ability to pay our people based on rates that you are willing to pay and bills that you want to audit/cut.

Convey specific objectives for case resolution early after reviewing available information.

At our firm we are big believers in communication with the adjuster. Simply speaking on the phone throughout the case to develop strategy goes a long way in successfully defending a claim. We pride ourselves on our efforts to regularly communicate in person or over the phone.

Over the years, I increasingly feel that the carrier and its requirements act as another adversary and that some reporting requirements require too much time.

When I entered this field, many years ago there was an unspoken agreement that defense firms would work for ridiculously low rates in exchange for allowing high amounts of hours. The overall change in thought process that D attorneys were abusing the system and needed to be brought to heel has destroyed the economics of D firms. Eventually D firms will be unable to recruit quality attorneys and stay profitable. I have been warning that one day all the good litigators will be on the P side. I have been warning about this for 15 years. The trend has only gotten worse. This survey is an excellent step to at least understand this phenomenon. I believe a major change needs to occur to stop this problem from progressing. It is like global warming. We all see it happening but don't have the will to stop it.

So much focus on clamping down on defense expenses and bill reduction with such blindness to why on earth any defense attorney would continue to dedicate their life to their client's needs in light of this. It is near impossible to find anyone who would give up their summer to prepare for trial, there is no incentive. The fee structure means what the firm will make an extra \$20,000 which may trickle into some form a small bonus for the attorney and staff when Plaintiff's counsel's return on investment is possibly millions. The effort and sacrifice are simply not worth the reward on the defense side. We are constantly told what we should be doing better, working for free, providing bill fronting for vendors, processing carrier's bills, waiting 90 180 days to be paid and cutting time we spend away

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from our families working for them. The industry is dying, and the root cause is litigation executives who feel clamping down on defense attorneys is the answer to their problem. Pay them more, require less free services and treat them how they deserve and maybe we will see changes industry wide.

Low rates and high audit cuts negatively impact the industry in incalculable ways. They restrict defense counsel's ability to properly staff cases with top talent, lead to turnover, and create cascading issues with obtaining cutting edge representation. Re-establishing a trusting relationship (not interfered with by contingency based auditors) w defense counsel and spending greater time on per-file and per-firm evaluations would also be helpful. Improved metrics for accurate case evals without case-creep, successful indemnity outcomes and trial results would also allow the cream to rise to the top.

1) Please pay expert witness bills promptly. They look to us for payment, since we are their point of contact, and they think WE are stiffing them when payment is delayed. That causes friction with our experts, who we need. 2) Please don't use a bill auditing service or program that tells us how much time a task should have taken. We bill for exactly the time it took, and not a minute longer, and we reduce the logged time of young associates before our bill goes out if they have taken longer than they should. You (or your auditor) weren't there for the motion nor drafted the document, so don't tell us how long it should take. Every pleading and event is different. 3) Please don't think we're trying to cheat you. We aren't.