

Consolidating accident data

It makes sense on every level for fleets to share information for lawsuits



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In the never-ending journey for fleet efficiency, fleet managers should not ignore the costs of accident investigation and defense of claims. Companies that operate regional or national fleets can achieve considerable efficiencies and economies of scale by consolidating their defense of claims and lawsuits into a national counsel model in which a designated team of in-house and outside lawyers (as opposed to different lawyers in each state) manage and execute the defense of all motor vehicle accident claims and lawsuits. This approach can provide for more consistent application of defense strategies, improve communication between the company and its outside counsel, reduce the amount of time spent searching for and collecting relevant information in each case, and reduce the amount of time spent educating outside counsel about the company's fleet policies and procedures.

- **Personal injury claims share many common features from state to state.** Although there are some variations in each state's laws, the lawsuits that arise from a typical motor vehicle accident share common features regardless of where a lawsuit is filed. The claims asserted by the plaintiff and the defenses asserted by the defendants are relatively consistent in each case. As a result, the types of information requested by both parties during the discovery phase is relatively predictable. Thus, while every case is unique and requires individual attention, the common features and predictability of lawsuits arising from motor vehicle accidents allow companies to develop procedures to make their defense of these claims more efficient.

- **The predictability of lawsuits allows for early preparation.** The earlier a company starts preparing for litigation, the more efficient its defense can become. Plaintiffs typically request the same types of documents in every case—insurance policies, vehicle registration documents, vehicle maintenance records, driver personnel records, accident reports and photographs, telematics data, and safety policies. It is important for a company to understand—as early as possible—what story these materials will tell. Early knowledge of this information can play a critical role in developing the defense strategy. Uncovering this information midway through a lawsuit can result in missed opportunities. For example, perhaps the company could have negotiated a better pre-suit settlement had it been armed pre-suit with helpful telematics data.

For these reasons, it is important that a company establish procedures for quickly locating and collecting relevant documents. Assigning this responsibility to a designated individual or team will create accountability in the collection efforts. Creating a checklist of materials that should be collected in each claim/lawsuit will also aid in consistency. A company can further improve its efficiency by creating a library of global documents that are not specific to an individual accident but are routinely requested in discovery, such as insurance policies, driver training manuals, and driver safety policies.

- **A dedicated team of in-house and outside counsel can help create efficiencies post-suit.** Opportunities for efficiency continue after the filing of a lawsuit and commencement of discovery. Given the similarity of allegations in each case, it makes sense for a dedicated team of in-house and/or outside counsel to draft a company's responsive pleadings in all motor vehicle accident cases. This prevents the company from having to educate different lawyers in different states about how it prefers to respond to various allegations and what defenses it likes to assert. A company does not have to worry about outside counsel in one state admitting an allegation that outside counsel in another state denied.

- **Employing a national counsel model can reduce costs and improve consistency in application of defense strategies.** How a company responds to written discovery in one case, or what a company witness says at a deposition, might be used against it in subsequent lawsuits.

A national counsel model reduces the risk of inconsistency because it reduces the number of outside counsel involved in responding to discovery. A national counsel model also allows the outside lawyers to gain an understanding of the legal department's approach to discovery, which helps the outside lawyers work more efficiently.

- **Conclusion.** On the long, winding road toward an efficient fleet, a company should not ignore the costs incurred after an accident occurs. There are considerable cost savings to be obtained through the early and consistent application of a global defense approach managed by a designated team of in-house and outside counsel. ■

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