



# Choosing a Claims Consultant

Donald M. Huffer, CPCU, AIC, AIM

Over the last 50 years claims handling has changed dramatically. In the 1950s and most of the 1960s, the person assigned to handle a claim was known as a field adjuster. This person – equipped with a company car, a statement pad, and a set of field drafts – met in person with the insured claimant and the witnesses.

It was then determined that a greater volume of claims could be more efficiently adjusted from a desk in the claim office. The new claims handler was equipped with an electronic recording device to capture the insured, claimant and witness statements.

No longer did the adjuster go to the accident scene to look for physical evidence. No longer did the adjuster meet in person with the claimant to assess whether their version of the accident was credible. The objective became to obtain the maximum number of claims that could be reasonably handled in a single day.

The move to handle claims from inside the claims office continued and soon only large exposure cases warranted actual field investigation. Carriers even changed the traditional adjuster title whose job it was to adjust claims (everyone knew it was not an upward adjustment of the claim value being pursued!) to the more customer-friendly claims representative or claims examiner

Claims handling was further changed in the 1970s with the introduction of the computerized claim systems. No longer did clerks need to type out multi-part drafts. No longer did it take weeks to get a check out the door; checks were now issued in a matter of days. The increased efficiency of the claims handling process resulted in fewer people handling more claims.

The new century brought with it many changes: the “unbundled” policy underwriting concept, the development of third party administrators (TPAs) to handle claims, policies with higher policy limits and larger self insured retentions, and the need to outsource some claim handling functions to achieve an acceptable expense ratio. The changes were designed to make the insurance companies more competitive and profitable.

While they achieve new efficiencies, these changes bring about new challenges and the need for another set of specialists (the claims consultants) to streamline the claims handling process. Carrier claim staff, TPAs, and independent adjusters are trained and equipped to handle routine claims but do not process the expertise or experience to handle the mass tort mega claim. The claims consultant can bring to the claims process



the expertise and experience in handling the large exposure claims not found on staff or at a TPA or independent adjusting firm.

The claims consultant is a relatively new concept and needs to be defined so it is not confused with the traditional concept of the independent adjuster or third party administrator. Claims today generate far larger financial exposures than in the past. For example, look at the potential financial exposure to a car manufacturer and its carriers if defective tires have been determined to be the cause of multiple accidents with severe personal injuries, or the financial exposure to a drug manufacturer of a diet drug found to cause heart problems. Loss potential in these cases frequently exceeds the \$25-\$50 million policy limits of a carrier's excess policies.

While a third party administrator or independent adjuster handles routine claims, a claims consultant works on more complex claims where the context of the claim is more unusual, such as product recall claims, environmental claims, or other mass tort type claims such as asbestos or construction defect claims. The claims consultant should be considered a resource, a source of knowledge and experience for an insured faced with the potential of a major loss.

A three-step test can be used to determine if the employment of the claims consultant is necessary in a specific claim scenario:

- 1. Do existing staff members have the expertise and experience necessary to properly develop and conclude the claim(s)?** Complex claims require special skills in claim management, analysis of coverage, defense strategies, negotiating techniques and experience in handling class action litigation. Existing internal staff probably does not have the expertise and experience necessary to properly develop and conclude the claim, and, even if they do, their internal work may be substantially impacted.
- 2. Is there a senior-level staff person available to handle the claim?** If senior level staff members are occupied with their daily workload, a claims consultant can be brought in to manage an unusually large and time consuming complex claim freeing senior staff to devote their time to routine business.
- 3. Does the claim generate a potential financial exposure sufficiently large enough to warrant the employment of an experienced and knowledgeable claim consultant?** When the claim is unusually large and the exposure reaches into the million of dollars, a qualified claims consultant can use their quantitative skills to estimate the size of a firm's exposure as well as use their claim experience to manage the claim.

The test is simple and it does not require extensive work to reach a logical and supported conclusion. If staff does not possess the expertise or experience, the



claim(s) will never be properly evaluated nor will the defense and/or settlement negotiations strategy options be thoroughly explored to assure the best possible result.

The following example illustrates how a claims consultant can benefit an insurance carrier or a company facing a claim.

The insured is a processor of a prepackaged food product. Numerous cases of illness from eating their product have been reported. Listeria has been identified as the cause and a major recall campaign has been initiated by the insured. The insured's customer service center is receiving hundreds of calls per day: some related to returning the product, some requesting information about listeria, and some calls by persons reporting claims. The claim reports are sent to the product liability insurance carrier and the product recall carrier and now questions about how the claim will be managed are being raised.

The company and its insurance company, using the test above, determined it would employ the services of a claims consultant. In this case a large number of claims were reported, the company's senior level staffers were overwhelmed by the number of calls, and the parties involved wanted insight into how to deal with listeria. Hence, a claims consultant was engaged.

The employment of the claims consultant can bring coordination between the efforts of the insured, insurers and their counsel. The consultant can arrange meetings of various parties to ensure all assigned tasks were underway and that no duplication of efforts exist. A consultant who has experience in these types of claims will know the claim issues that need to be addressed and how to most efficiently and effectively bring closure.

The claims consultant, however, can also add value before a loss has occurred. He or she can be engaged to prepare a pre-loss plan that takes into account various identified risks. For instance, if a pre-loss product recall plan had been developed before the listeria problem in our example arose, the insured have known how to deal with the media, the product recall notifications, the hundreds of calls jamming its consumer phone center, and, most importantly, how to deal effectively and fairly with its customers.

Once a party has determined it needs a claims consultant, the qualifications of the claims consultant need to be carefully reviewed to assure the consultant possesses the resources, knowledge, and experience necessary to deliver a quality product that will generate overall cost savings at the end of the day.



A claims consultant should possess the following qualifications and characteristics:

- ◆ Claims management experience and skills;
- ◆ Effectively led others through difficult claims;
- ◆ An outgoing personality who can objectively evaluate the work that needs to be done;
- ◆ A good analytical mind for complex claim scenarios;
- ◆ Extensive experience in the area of need;
- ◆ Substantial knowledge of insurance coverage and experience in handling complex coverage issues;
- ◆ Substantial experience in handling complex liability situations including class action litigation;
- ◆ Extensive experience in evaluating bodily injury and property damage liability insurance claims;
- ◆ Extensive negotiating experience including negotiation of buy-back agreements, coverage-in-place agreements, cost sharing agreements, class action settlements, and claims administration agreements;
- ◆ Information, systems and staff available that permit development of state-of-the-art recommendations

Not every claim requires the experience and expertise of a claim consultant and in fact the vast majority of claims do not demand that level of expertise. However, there are those situations where the required claim expertise needed in a complex mass tort case is not on staff or available in the routine handling resource. Those situations need to be acknowledged.

There is no greater advertisement or compliment an insurance company can earn than an insured who said “my insurance company stepped up and took charge of a major claim we faced and brought comfort and peace of mind to our management and our injured customers quickly and professionally”.

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Donald M. Huffer leads the insurance and claims management practice of The FSC Group and its operating divisions. For more information on claims management and related services, please contact him in our San Francisco office at 415-777-0707 or by email at [donaldhuffer@fscgroup.com](mailto:donaldhuffer@fscgroup.com).