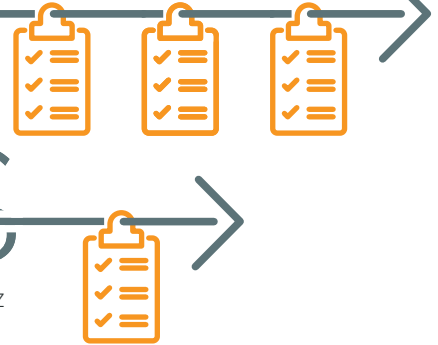


SOLUTIONS-FOCUSED CLAIMS INVESTIGATIONS

THE FUTURE OF CLAIMS

by Stephen Schultz



Recorded statements are a unique type of investigation. DigiStream's core investigative work is covert, in which Surveillance Investigators and Research Analysts are operating without ever being perceived by the individuals we investigate. In contrast, Claims Investigators meet with these same individuals face-to-face or over the phone to obtain their on-the-record account of the incident that resulted in the claim. Claims Investigators ask questions related to the claimant's background, medical history, and the details of the claim itself

OUT WITH THE OLD

The traditional approach to these interviews involves the Investigator taking an interrogatory stance, because the claimant is suspected of committing fraud. In fact, interviews always begin with a "fraud admonishment," in which the claimant is specifically told that knowingly providing false information is a criminal offense. While it is the Investigator's job to obtain the claimant's narrative and ask pointed questions about the incident, this style of interviewing does very little to set the claimant's mind at ease; sadness, anger, humiliation, and despair are common feelings among injured workers following an injury. The interrogatory nature of the interview can create or amplify feelings of anger and anxiety within the claimant, as they may sense that they are being accused of doing something wrong, possibly criminal.¹

Feelings of fear, anger, and confusion can lead to higher rates of litigation, as claimants may feel they require representation to guarantee fair treatment. Whenever a claimant obtains representation, the insurance carrier can expect the "life" of a claim to be dramatically extended. A 2018 study concluded that litigated claims take 195% longer than non-litigated claims to

resolve and involve 284% more days of lost time from work.² The extended claims period has detrimental effects on the claimant's ability to recover and to return to work, as they are locked into a "disability mindset" while the claim is litigated. The longer a claim is open, the more expensive; the average cost of litigated workers' compensation claims are 388% more expensive than non-litigated claims. Furthermore, a litigated claim can severely hamper subsequent investigative endeavors. Represented claimants are more likely to be aware of surveillance efforts and their social media privacy due to the "coaching" they may receive from their lawyers.

While it's still important to actively detect and report fraud, it should be noted that a small percentage of claims actually display elements of fraud; estimates indicate that only 1%-2% of workers' compensation claims filed across the country each year are fraudulent.³ This means that many of the claims we deal with on a regular basis are from legitimately injured workers who are victims of unfortunate workplace accidents and are entitled to compensation/benefits while they recover. Therefore, claimants should be treated with respect and compassion to settle claims quickly.

IN WITH THE NEW

One of the latest developments in the claims industry is to approach claimants with an air of positivity and empathy. “Stakeholders” in the claims industry, which includes all individuals who “touch” a claim, such as claims and medical professionals, have been moving towards “advocacy-based” models of care. These models incorporate empathy, active listening, and counseling elements to put injured workers at ease and make them feel more comfortable with the claims process. Simply put, advocacy-based models strive to treat injured workers like humans. This is in stark contrast to traditional models that treat injured workers as suspected fraudsters.

“Solutions-Focused Claims Investigations” (“SFCI”) is DigiStream’s proprietary advocacy-based claims model, which was developed and implemented by our Claims Consultant, Dr. Mark Peterson of PsyConsulting, in 2018-2019. Dr. Peterson also conducts SFCI training as part of DigiStream’s “Claims 201” training program. SFCI is an interviewing style that focuses more on claimants’ capabilities rather than their disabilities. SFCI techniques encourage claimants to talk about what they can do and, if they are unable to perform an activity due to an injury, how they can get back to doing activities they enjoy. SFCI tries to remove claimants from a “disability mindset” and reorient them towards recovery. SFCI techniques provide hope and support and promote positive attitudes about recovery; a claimant that feels supported and has a positive outlook on their recovery is less likely to litigate and more likely to return to work, thus reducing friction in the claims process and ultimately reducing the cost of the claim for our clients.

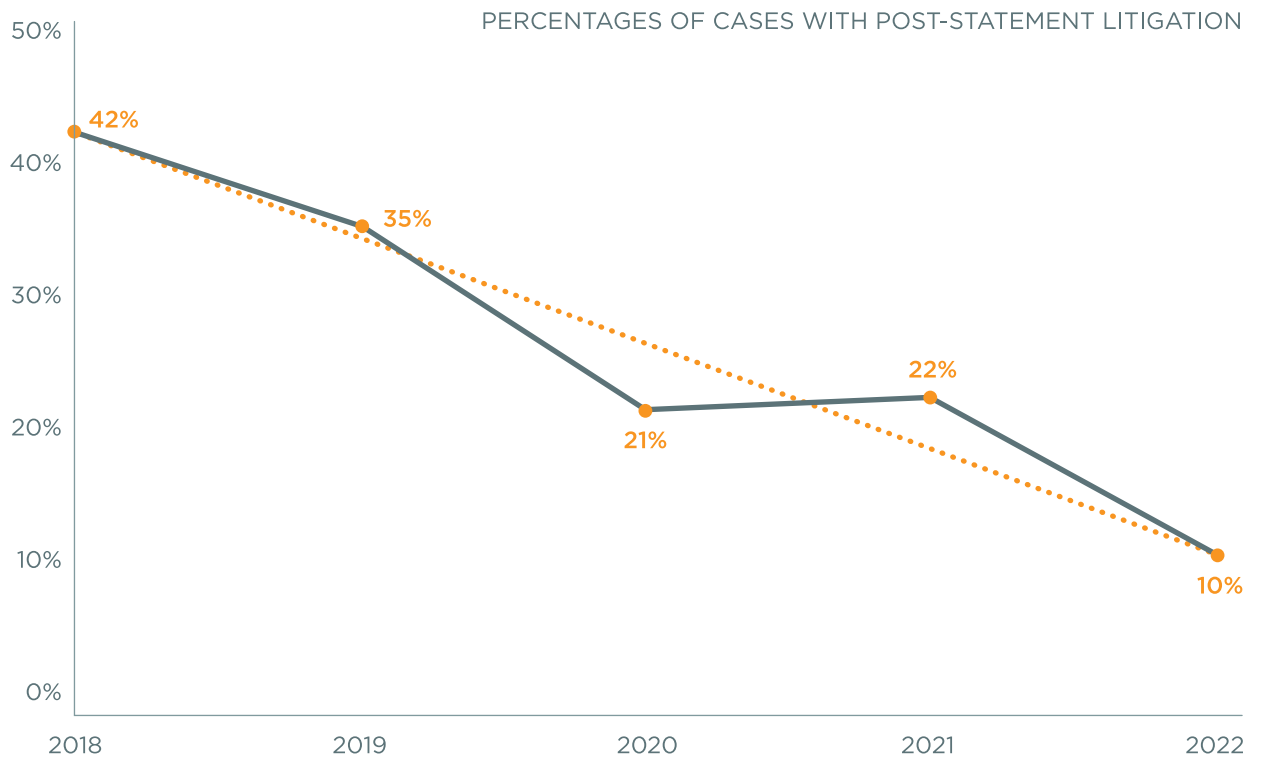
According to the 2021 Workers’ Compensation Benchmarking Study performed by Rising Medical Solutions, the workers’ compensation industry has only recently accepted the use of advocacy-based models of care. At the time of SFCI’s initial development and implementation, less than 50% of major claims professionals knew about advocacy-based claims models; currently, 80% of those same professionals are now aware of the models and are currently implementing them. In a matter of a few years, advocacy-based models went from being a somewhat niche concept to becoming a “core operational strategy” among the highest-rated organizations.⁴

RESEARCH & RESULTS

DigiStream launched a research project in 2021 to examine the frequency of post-statement litigation year-over-year since 2018 to determine the effects of SFCI on claims outcomes. As California is arguably DigiStream’s largest and most comprehensive territory, and claims information is easily accessible, we focused on recorded statements conducted by our California affiliates (Bay Area, Central Valley, Los Angeles, San Diego) between 2018 and 2022.

For the purposes of our study, DigiStream analyzed claims in which the claimant was interviewed. These claims were either “Not Litigated” or “Litigated Post-Statement.” For the purpose of this study, “Litigated Post-Statement” means the claimant obtained representation after DigiStream took their statement. Measuring the post-statement litigation rate was our primary focus, as a high rate indicates that DigiStream’s interviewing style may be a contributing factor to claimants’ decisions to obtain representation. We anticipated to see a year-over-year decline in post-statement litigation rates as SFCI became more refined and widespread.

In 2018, when DigiStream was still developing SFCI, 42% of the claimants we interviewed litigated post-statement. This indicates that claimants obtained representation almost half of the time after DigiStream had taken a statement, which means our traditional approach to interviewing may have been causing claimants to feel uncomfortable or suspected of fraud. In 2019, the year DigiStream fully implemented SFCI, post-statement litigation rates fell to 35%. While this represents a reduction in litigation, over a third of the claimants we interviewed may still have felt uncomfortable to the point of seeking representation.



In 2020, a year marked by heightened anxiety and job insecurity due to the pandemic, post-statement litigation rates fell to 21%, a 40% decrease from the previous year. DigiStream experienced a slight uptick in claimant litigation in 2021; however, at the close of 2022, DigiStream's post-statement litigation rate fell 54.5%, the largest decrease since we started collecting data, to a mere 10%. Between 2018 and 2022, DigiStream experienced a 73% decline in post-statement litigation rates. It's important to note that post-statement litigation rates may fluctuate over time, as claimants may pursue litigation months or years after our interviews were conducted. While it is unrealistic to expect DigiStream's post-statement litigation rate to drop to 0%, we believe that a continued investment in SFCI will reduce the rate into single digits.

CONCLUSION

At the onset of this research project, we hoped to see post-statement litigation rate drop year-over-year as SFCI became more mature. We recognize that, due to the number of variables, this research cannot be used to show definitive causation between post-statement litigation rates and DigiStream's implementation of SFCI; however, we do believe that there is an inverse correlation between SFCI's maturity and post-statement litigation rates. Even if a particular claim does not call for a full implementation of SFCI tactics and questioning, elements of SFCI can be still applied; all types of cases can benefit from even a small amount of SFCI tactics. The data supports the notion that as DigiStream's investment in SFCI continues, fewer injured workers seek litigation for their workers' compensation claims. A robust SFCI program has the potential to make a large impact on litigation rates, return-on-investment, return-to-work rates, and overall client and worker satisfaction.

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<https://lohp.berkeley.edu/wp-content/uploads/2012/08/Navigating-the-California-Workers-Compensation-System-.htm>.
- 2 *The Impact of Attorney Involvement on Injured Workers*. CLARA Analytics, June 2018
https://cdn2.hubspot.net/hubfs/4146929/Whitepapers/WP_LitigationImpact_June2018.pdf.
- 3 Leigh, J. Paul et al. *Costs of Occupational Injuries and Illnesses*. Ann Arbor: University of Michigan Press, 2000
- 4 *Workers' Compensation Benchmarking Study*, Rising Medical Solutions, 2021