



# Sompo International Legal Services Guidelines



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## **Sompo International's Objectives**

The goal of Sompo International is to ensure the legal services received by its insureds are of the highest quality and are provided in a timely, efficient, and cost-effective manner.

The policies and procedures contained in these Legal Services Guidelines (“Guidelines”) outline the terms of your engagement as counsel. These Guidelines are intended to address all manner of engagement with our law firm partners. Our initial contact will apprise you of our objectives, fee arrangements, Sompo International and insured liaison contacts, and any special handling requirements. We will expect each party to keep the other apprised of significant developments in addition to the communications requirements discussed herein.

Sompo International also expects counsel will immediately notify us whenever it appears the cost of defense will be disproportionate to the size or the importance of the case or if total fees are likely to exceed reasonable expectations.

Sompo International values its relationship with counsel and encourages counsel to communicate candidly about methods and strategies to improve service and reduce costs for our mutual clients. We believe in the team approach to legal services and especially litigation management and endeavor to develop long-term partnerships with counsel.

## **Expectations and Requirements for Law Firms**

Sompo International recognizes the professionalism of the firms we engage. In light of this, we expect and require each firm to maintain Professional Liability insurance with minimum limits of \$5,000,000.00. Please forward your insurance certificate to our Vendor Manager, Anthony Rivera, Email: [arivera@sompo-intl.com](mailto:arivera@sompo-intl.com). Your certificate will be kept on file for the duration of your relationship with Sompo International as well as seeking updated certificates upon renewal.

## **Litigation in which Sompo International is a Party**

The claims handler must be notified immediately if Sompo International or an Endurance company becomes a party to litigation. Copies of all pleadings in such actions should be sent to Richard M. Appel, Senior Vice President, Senior Counsel at 1221 Sixth Avenue, New York, New York 10017; Phone: 212-209-6508; E-Mail: [rappel@sompo-intl.com](mailto:rappel@sompo-intl.com). If ever a current or former Sompo International employee is noticed as a witness, Mr. Appel should be advised immediately.

## **Conflicts of Interest**

In most cases, Sompo International appoints counsel to represent its insured in litigated matters. Although Sompo International appoints counsel and pays counsel’s fees (per the terms of the applicable policy) for such legal representation, Sompo International recognizes the insured, Sompo International, and defense counsel are bound in a tripartite relationship with each party owing one another duties and obligations peculiar to their respective positions, the foremost of which is the attorney - client relationship between the insured and counsel. Defense counsel, upon receipt of an assignment, is expected to investigate, identify, and disclose any such potential or actual conflict of interest that exists or may occur as to counsel, the insured, and Sompo International.

Should an actual or potential conflict of interest be identified, counsel must immediately provide both the insured and Sompo International with written notification stating the facts giving rise to the conflict. Should Sompo International and its insured agree to a written waiver of the conflict or potential conflict, counsel may continue with the defense. Otherwise, Sompo International will provide for other representation for its insured.

## **Staffing**

Cases will be assigned directly to specific counsel. The attorney selected will be primarily responsible for all aspects of case management, including implementation of the litigation strategy, delegation within the law firm, and cost-effective handling of the litigation or assignment. Each case should be staffed with no more than three individuals: a partner or of counsel, an associate, and a paralegal (if paralegal activities will enhance efficiency and cost-effectiveness). Should additional staff be necessary (attorney, associate, paralegal, etc.) for any reason, including but not limited to, temporary replacement, additional non-duplicative work, specialty experience, etc., it is incumbent upon the partner to advise and request written approval from the claim handler. This approval should be attached to the invoice. We will not pay for activities we consider clerical or overhead as itemized in the Counsel Business Overhead section of these Guidelines.

Only one member of the defense team may attend depositions, court appearances, meetings, etc., unless prior written approval from the claims handler has been received. Trial staffing must also be discussed with and pre-approved in writing by the claims handler.

## **Paralegal Services/ Clerical**

Utilization of paralegal services can be cost-effective, and Sompo International encourages their use for services, which are commensurate with their training, education, and experience. Common paralegal functions include, but are not limited to all activities associated with ordering records, reviewing and summarizing records, and page line deposition summaries when pre-approved. The time of secretaries, clerks, managing clerks, summer associates, librarians, and messengers for tasks such as photocopying, filing, delivering materials to court or opposing counsel, scheduling, arranging for deposition reporting, opening/closing files, preparing service/filing letters, cataloging, chronologizing, word processing, making travel arrangements, document stamping, faxing, collating, velobinding, document organizing, and retrieving documents from file is not billable.

## **Strategy/Plan**

Within the first 60 days following case assignment, counsel must consult with the assigned claims handler to develop an agreed upon strategy and/or direction of counsel's engagement.

For defense counsel, a written Legal Defense Strategy Plan is required as soon as practicable, within 30 but no more than 60 days after assignment, and shall include (1) the scope of legal work, (2) discussion of parties, counsel and jurisdiction, (3) strategies to be pursued, (4) staffing required by defense counsel, (5) total estimated legal fees associated with defense activities, (6) estimated settlement value and verdict value, and (7) the advisability of alternative dispute resolution. All significant developments should be reported as soon as practicable, and should discuss the impact on the insured's defense, update on liability and damages, and an updated litigation plan.

A budget is also required within this period and must be updated every six months and for defense counsel, 30 days prior to trial.

At least 30 days prior to a mediation or settlement conference, an evaluation (not to exceed three (3) pages), discussing overall case value, settlement value, our insured's potential liability, defense counsel's recommendation for settlement and the authority sought must be provided. An updated budget must be included with this evaluation.

## **Case Disposition**

Sompo International seeks to minimize litigation and related expenses and we expect counsel to work toward cost-effective resolution. The use of alternative dispute resolution is encouraged if settlement

negotiations are unsuccessful. No settlement discussions are to occur without Sompo International's prior written approval.

For non-defense engagements, the claims handler will notify counsel of the closing of the case and remind counsel to submit any and all final billings within 30 days.

### **Fees & Defense Counsel Evaluation**

Sompo International will only pay the pre-approved hourly rate or alternative fee arrangements. Rate increases will be approved only if agreed upon by Sompo International in advance and in writing and will apply to new assignments only.

### **Communication**

Timely and effective communications between counsel, insureds, and Sompo International are essential. Sompo International encourages telephone discussions between counsel, insureds, and its representatives for quick, cost-effective discussions of status and activities.

The following communication guidelines should be followed on all cases, regardless of the nature of engagement:

- Written acknowledgment of assignment of cases within two (2) business days
- Prepare a Strategy Plan and Budget within 60 days of assignment; for defense counsel, a Litigation Defense Strategy Plan and budget within 60 days of assignment
- Discuss with the claims handler any additional investigation which becomes necessary and by whom it will be performed
- Immediately report all settlement demands
- Any request for settlement authority must be made as soon as practicable based upon case developments. Requests for authority or participation in any mediation or settlement conference at the last minute will not be tolerated.
- Notify Sompo International as soon as a trial, mediation, arbitration or other significant settlement negotiation dates are scheduled
- Provide ample lead-time to Sompo International and its insureds when submitting interrogatories for completion
- Provide a case status update every 90 days until closure. These status updates should be brief and sent via email only.
- Report all discovery undertaken on a periodic basis. Sompo International will request complete copies of discovery documents on an as needed basis
- Submit a comprehensive report, including evaluation, at least 60 days prior to trial or arbitration
- All written communications to Sompo International shall be via e-mail only and should include the Sompo International claim number and name of the insured

### **Legal Research**

Sompo International expects counsel will be experienced and familiar with the legal issues of most cases. From time to time, some research will be necessary. This research must be performed by the associate assigned to the file. Written approval of the claim handler for legal research in excess of three (3) hours must be obtained.

We do not require a formalized memorandum discussing the results of legal research, if one is prepared please send a copy to the claims handler. Research on fundamental matters such as local rules of practice

or basic issues of law is not billable. Fees for Westlaw, Lexis or similar on-line legal research services are not billable.

### **Discovery**

Discovery and motion practice must be cost-effective. Sompo International is sensitive to unnecessary discovery and its cost. Whenever possible, defense counsel should handle discovery informally, including production of documents, arranging for depositions and handling discovery disputes. Common paralegal functions include, but are not limited to preparing form discovery demands and responses. Other, more case-specific discovery may be handled by an associate. Discovery motions should be filed as a last resort and must be preapproved in writing by the claims handler.

Only one attorney may attend a deposition, witness meeting, court appearance, etc. Written preapproval by the claims handler is necessary if additional legal staff is required and before taking or attending the deposition of any individual other than the parties to the action or experts. A deposition report, of no more than three (3) pages, should include impressions of the witness, summary of the relevant testimony, and impact of the testimony on the insured's potential liability and damages. Do not prepare a line-by-line summary. Digesting (page/line summaries) of depositions requires preapproval by the claims handler and is solely a paralegal function.

The projected cost of discovery should be discussed with the Sompo International claims handler upon initial assignment and at appropriate times during the life of the litigation. Staffing and expenses, including retention of third-party vendors, anticipated from electronic discovery obligations and large document projects must be discussed in advance and be preapproved by the claims handler.

### **Alternative Defense Arrangements**

While most legal services will be contracted on an hourly fee basis, Sompo International will consider alternatives such as flat fees and incentive/value billing plans, when appropriate, as they can result in economies and efficiencies for law firms, Sompo International, and its insureds.

### **Auditing**

Sompo International reserves the right to conduct periodic audits of file(s) handled on behalf of Sompo International or its insureds. The purpose of the audit is to evaluate the quality of legal services provided, adherence to handling and billing requirements, case management, cost-effectiveness, and overall results. The audits may be conducted by Sompo International or others retained on Sompo International's behalf. The audit will take place at counsel's premises (unless otherwise requested by Sompo International) at a mutually acceptable time and date.

By accepting assignment of Sompo International business, the law firm agrees to cooperate with the auditors and will make available the senior attorney responsible for the file(s), other personnel as requested, complete access to the file(s), and all pertinent billing information, time slips, document records and/or reports as requested. The outcome of the audit will be discussed between Sompo International and the managing partner and/or the senior attorney selected to handle the Sompo International account.

### **Media Relations**

Sompo International is interested in protecting the privacy and confidentiality of its insureds. Counsel is not authorized to make any public comments, issue statements or press releases in connection with any matter being handled for Sompo International or a Sompo International insured. Any exceptions must be pre-authorized by Sompo International. If you are contacted by the media, please advise the claims handler immediately.

## **Submission of Billing Invoices, Appeals and Legal Budgets**

Bottomline Technologies (“Bottomline”) is our electronic billing and legal expense management partner. All legal budgets required by these guidelines must be submitted through Bottomline for review and approval by Sompo International. After the budget is approved in the Bottomline system, a copy must be sent to the assigned claim handler. Instructions for submission will be provided. Invoices submitted for payment that are at or above the approved budget will be rejected until a revised budget is submitted and approved.

All invoices should be submitted to Bottomline, in accordance with their instructions, on a quarterly or monthly cycle, with confirmation from the claim handler, from the date your firm was assigned the file, unless other arrangements have been approved. Each entry on the invoice must be appropriately coded using the Uniform Task-Based Management System (“UTBMS”) codes as approved by the American Bar Association. Failure to provide UTBMS codes for each entry will result in rejection of the bill. Invoices submitted for payment must be received by Bottomline within forty-five (45) days of the close of the billing period, whether this is a quarterly or monthly billing cycle. Any invoice submitted outside of this period is considered “stale” and will be deducted accordingly. All submitted invoices must include the claim handler’s written preapproval for all activities where such approval is required and the preapproval must be attached to the invoice at submission. Written preapproval provided to counsel for cases handled by Third-Party Administrator’s on Sompo International’s behalf must also be submitted with the firm’s invoice. Final invoices must be submitted for payment within thirty (30) days of conclusion of the case. Stale billing over 6 months old will not be considered for appeal. Please note: Sompo will not be responsible for late billing due to counsel’s use of a third-party billing vendor.

If you would like to request reconsideration of any deductions taken on your invoices, there is an appeal process. Sompo International has defined a forty-five (45) day appeal period (from the date the Bill Analysis Report was released) within which you may submit an appeal of any of the reductions. Appeals are to be submitted electronically and timely, with any and all supporting documentation and explanations as requested on the Billing Analysis Report. Please ensure your firm’s billing department communicates what is defined and expected to be included in the appeal as denoted for each reduction or deduction on the invoice.

## **Activities Not Requiring Consultation with Sompo International**

The following activities may be undertaken without consultation.

- Initial review of Complaint, or Petition
- Review of substantive court orders
- Initial draft of Answer/Notice of Appearance/Demand for Jury Trial
- Correspondence essential to the litigation. Examples are correspondence related to pleadings, negotiations, settlement discussions, strategy, and evaluations
- Telephone conferences
- Preparation of key witnesses
- Review of expert reports
- Review of medical reports
- Post-deposition summary and reporting of pre-approved depositions
- Preparation of non-discovery motions/briefs not exceeding three (3) hours
- Case/litigation reports to Sompo International
- Settlement conference statements
- Court appearances
- Trial preparation and attendance
- Preparation of non-standard releases
- Conferences between counsel and Sompo International
- In-firm communications (oral or written) that are instructional, educational, informational, administrative or supervisory in nature are not billable. Entries for substantive

communications that demonstrate the independent contribution of the participant(s) and provide sufficient detail of the subject of the communication to demonstrate its relevance and value are only billable between attorneys. Only the conference time of the handling attorney or the highest ranked attorney will be reimbursed

### **Activities/Disbursements Requiring Consultation with Sompo International**

Consultation with and written preapproval of the claim handler is required before the following activities are undertaken. All invoices submitted for the below activities must include the written preapproval:

- Attendance at mediations and/or arbitrations
- Legal research exceeding three (3) hours
- All discovery motions and other motions and briefs exceeding three (3) hours
- More than one attendee at a trial, hearing, court appearance, arbitration, mediation, deposition, third party conference call, or any similar event
- All expenses over \$5,000, including experts and other vendors
- Staffing, other than as discussed in the Staffing section of these Guidelines

### **Counsel Business Overhead**

Like any business enterprise, law firms incur overhead expenses. Sompo International considers such expenses as included in the hourly rates established by the law firm and not billable as professional services.

Non-billable fees include:

- Preparing, reviewing and/or following up on firm or vendor invoices
- Preparing auditor responses
- Reviewing or analyzing conflict issues
- Attending seminars or continuing education
- Reviewing advance sheets or other publications to stay abreast of the law
- Time attributable to firm management factors such as supervisory file review, training time, and duplication of other staffing inefficiencies attributable to the departure/unavailability of firm personnel or other staffing changes
- Research, pleadings, discovery demands and work prepared for other files
- More than .1 hour for reviewing pre-printed or computer-generated forms, documents, pleadings, notices, discovery, etc.
- Individual charges for the same or similar documents sent to multiple parties (e.g., deposition notices)
- Proofreading, editing, mistakes, reworking, redrafting, and/or textual changes. (editing or revision time is billable only to add newly obtained information, or if requested by Sompo International)
- Preparation of bills and invoices
- Routine file reviews
- Calendaring
- Outside overnight/express/messenger delivery services unless required for a reason not caused by the firm (e. g. the firm's delay in preparing or filing papers is not justification). Justification must appear on or with the invoice as well as the claim handler's approval
- Charges for attempted phone calls or leaving or retrieving messages
- Case management, litigation, computerized support and/or document control systems
- Computerized legal research hardware or software costs
- Overtime and associated expenses - meals, transportation or other charges
- Office supplies
- Local phone charges
- Faxes
- Postage



## **Billing Format**

Each billing statement should be personally reviewed by the senior attorney to ensure all time charged reasonably reflects the value of the work performed, that all costs and disbursements were reasonable and necessary, and that the billing format is properly followed. Failure to follow these guidelines and adequately describe professional services will delay invoice audits, processing and payment. Block billing is not permitted.

The following information must appear in each invoice:

### **General Information**

- Firm's address and FEIN number
- Name of the matter
- Sompo International claim number
- Date of loss
- Insured's name
- Claimant's name
- Jurisdiction in which the suit is venued

### **Staff Member Information**

The invoice must also include a list of all timekeepers who billed time to each file during the bill period, including:

- Full names
- Initials or other identifiers used to identify them in the time records
- Ranks (e.g., partner, associate, paralegal)
- Hourly rate and, if the hourly rate for any timekeeper changed during the billing period, the change date(s)
- Unique identification number assigned by the firm

### **Fee-Related Information**

Each invoice must contain the following fee-related information:

- One-Hour Increments – billing in .1-hour increments (except for activities taking less than .1 hour that should be grouped with others to accurately reflect the time spent)
- Single-Activity Entries – a detailed description of each task performed in single- activity time entry, including the date it was performed, who performed it, their rate, the time expended and the charge

### **Billing Format-Adequate Descriptions**

Each activity must be described adequately so that a person unfamiliar with the case may determine what activity was being performed. Adequate descriptions include, but are not limited to:

- Specific purpose for summarizing documents
- For communications (e.g., telephone calls, correspondence, meetings), the identity of participant(s) and the topic(s) discussed
- Purpose of the court hearing/conference and who attended
- Identity of each deponent/interviewee
- Purpose of review of deposition or trial transcripts
- The specific issue researched
- Specific non-deposition discovery worked on and the nature of the work performed
- Specific trial preparation performed

- Specific motion worked on and the nature of the work performed
- Identity of the material or documents reviewed, including the scope and purpose with volume reviewed, i.e. bates numbers. Please give as much detail as possible
- For travel time: the time spent traveling, the purpose and destination

### **Billing Format-Inadequate Descriptions**

Examples of inadequate descriptions include but are not limited to:

- Attention to matter
- Letter or telephone call re status
- Preview of file, case or issues
- Arrangements
- Prepare for deposition (without discussion of specific preparation undertaken)
- Draft report
- Trial preparation
- Research
- Work on discovery
- Update status or strategy
- Work on file or case
- Prepare for meeting
- Receive/review documents
- Analysis
- Preparation of materials

### **Billing Format-Disbursement - Related Information**

Each invoice also must include a summary itemizing the total billed for each type of disbursement, travel expenses, filing fees, etc.

### **Cost Advances**

Costs and expenses for experts, consultants, court reporters, etc. in excess of \$1000 may be billed directly to Sompo International. All other costs and expenses should be paid by the law firm and reimbursement sought. The paid invoice or bill must be attached to the applicable invoice when submitted. It is your firm's responsibility to obtain the invoice in a timely manner, to prevent stale billing. Paid receipts for all expenses over \$50.00 must be attached to the invoice at submission. Sompo International will not reimburse counsel for penalties or interest charges due to late payment of vendor invoices.

### **Travel Time & Expenses**

Travel time must be itemized separately, including the time spent, destination and purpose of the trip. Travel time is billable at counsel's full hourly rate. Sompo International will pay for travel time, or for actual work done during that time but not both.

Expenses for preapproved travel must be reasonable and necessary and are reimbursable provided that:

- Each expense is separately identified with an amount and date incurred
- Mileage does not exceed the current IRS rate
- Hotel accommodations are moderately priced based upon the city
- Meals are only billable in connection with overnight travel and are limited to \$100 per day
- Taxis or shuttles are used rather than rental cars wherever cost-effective
- Rental cars are no larger than intermediate class, insurance coverage is not charged to Sompo International
- Coach or economy airfare on a non-refundable ticket (unless flying through three time zones, then business class is allowed) and, whenever possible, is reserved sufficiently in

advance and with an appropriate carrier, so as to secure the lowest rate under reasonable circumstances

Reimbursable office expenses include:

- Copying/scanning at a maximum of \$.10 per page
- Long distance telephone charges

Receipts must be supplied for expenses greater than \$50.00. Vendors' receipts (including hotel bills and tickets) must be supplied. Sompo International will pay only the actual cost for expenses (without premiums or mark-ups).