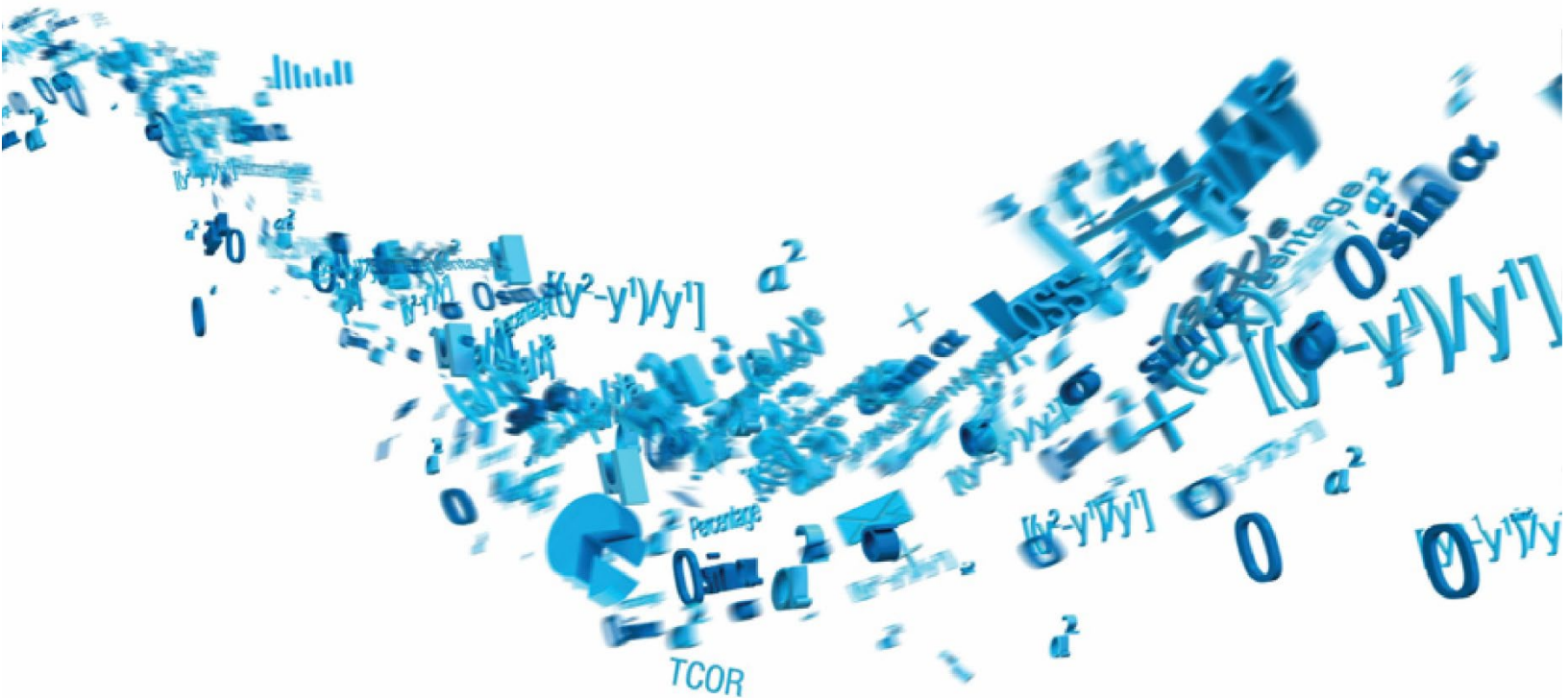



Enduris

2022 Claims Audit

Issued July 21, 2022





This report has been prepared on behalf of the Enduris Board of Directors and its Executive Director. Information contained herein should be considered personal and confidential, and often in association with litigation. Do not discuss the contents of this report with anyone outside of the Board without the prior authorization of the Executive Director or the Board.




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Executive Summary

Enduris is a government entity pool which was formed in 1987 to provide property and liability coverage through risk-sharing for its member entities. Since then, it has grown from under 100 to over 500 members. Most members are small with limited risk management resources and often rely on Enduris for claims and risk related services.

Mr. Bowlus has served as the pool's property and casualty claims auditor since 1998. Our principal contact during the audit was Holly Nelson – Claims Manager.

A review of 30 files was conducted remotely through the auditor's access to Enduris' Origami risk management information system. This included 19 open files with incurred values of \$10.446 million and 11 closed files with incurred values of \$1.297 million. The principal focus of the audit was on files with more significant exposures. Included in 29 of the files were 38 "suffixes" (individual claims); one other file includes over 200 suffixes. A representative sample from the membership, coverage groups and Enduris adjusters was selected. Most of the files requiring reporting to an excess insurer were examined.

The total incurred value on the files examined was \$11.7 million. This value, which is higher than in most past years, continues a trend starting in 2021 where the incurred values were substantially higher than in previous years. It is partially related to two property files with values of over \$2.2 million and \$3.2 million. The average value on the remaining 28 files was \$224,000, a considerable increase over last year's \$104,000 per file. As with previous audits, we focused on files with larger incurred values, including an increased number in the \$100,000 - \$1 million range. Only one file reviewed this year had incurred values of under \$10,000.

The audit conformed to Enduris' Administrative Policy document, which requires an evaluation of:

- 2.1.1 Claims handling performed in a timely and efficient manner
- 2.1.2 Communication between Enduris, members, and claimants
- 2.1.3 Condition of Enduris' claims handling and reserving practices
- 2.1.4 Case reserving practices
- 2.1.5 Loss experience reports accurately reflect case reserves and payments, and
- 2.1.6 Member satisfaction with claims handling

All these factors were evaluated in this year's audit. Communication and collaboration with the members is good. As addressed last year, this has been achieved while continuing to maintain a firmer stance on paying member property damage claims where coverage might be questionable, principally related to deferred maintenance issues. The claims management system continues to operate properly, and enhancements continue. This audit concludes that Enduris is meeting best practices for public sector claims and litigation management.

Employment practices liability (EPL) remains a concern for Enduris. The pool must continue its diligence on monitoring EPL incidents and managing resulting claims. As predicted in 2020 report, EPL claims continue to present a threat to Enduris, as they do with all public entity pools. A quarter of the claims reviewed last year were employment related. While the count dropped from 8 to 5 this year, the average value has doubled.

Recommendation:

Enduris should reconsider the practice of waiving a member's deductible when it is believed there is a strong chance of recovery of the full amount of the loss. There have been related instances where collection was anticipated but has not occurred. Refund of the full deductible can be made to the member if there is a full subrogation recovery.

Review Scope

Claim audit worksheets were prepared for each of the 30 files examined. Files were reviewed for timeliness and completeness of investigation, including: communication with pool management, members and claimants; control over vendors; reserve development including accurate reporting on case reserves and payments; reporting to reinsurers and excess insurers; litigation management; risk transfer evaluation; deductible collection; salvage management; subrogation collection; and coverage evaluation. Some salient statistics are tracked below.

A. Statistical Findings

1. Incurred Value Summary

The files examined over the past five years can be sorted into financial bands, with aggregated value on all suffixes in a file as follows:

	2018	2019	2020	2021	2022
0 - \$24,999	4	6	11	7	4
\$25,000 - \$49,999	4	5	3	4	3
\$50,000 - \$99,999	10	5	3	7	6
\$100,000 - \$249,000	7	7	10	6	9
\$250,000 - \$999,999	3	6	3	4	4
\$1,000,000 and over	1	1	0	2	4
	29	30	30	30	30

The total incurred and average values for all files examined over the past five years are summarized below (“incurred” defined as the amount paid plus the amount of money that has been estimated will be paid, or “reserved”). As in prior years, the value of these files is much higher than that seen in an average Enduris file because the audit focused on high value claims, those that present the most serious exposure to the pool. Note that more files in the higher incurred value bands were reviewed in this year’s audit than in previous years.

Audit Year	2018	2019	2020	2021	2022
Files Audited	29	30	30	30	30
Incurred Value	\$4,834,657	\$9,209,960	\$3,174,306	\$8,656,670	\$11,681,534
Average	\$167,000	\$307,000	\$106,000	\$289,000	\$389,000

The total primary incurred value for all files examined was \$11,742,335, or approximately \$391,000 per file. Where a self-insured retention was involved, we include amounts eventually recovered from excess, so all figures are “ground up”, indicating the total paid by Enduris and its excess or reinsurance partners. This year’s total and average value are inflated by two large property claims. These two claims have a combined value of \$5.6 million. When they are removed, the average claim value in a file examined is \$219,000, still a considerable increase over last year’s \$106,000 (this value is also based on the removal of two large property claims).

2. Claims History

Annual counts on closed files have been relatively flat over the past three years, remaining in the low 300 range. Current adjuster staffing levels appear to be appropriate, especially in consideration of the occasional assignment of some adjusting functions to outside firms.

Year	2018	2019	2020	2021	2022
Closed Count	336	305	317		

3. Entity Type

Entity Type	File Count	Total Incurred	Average Incurred
Fire District	12	\$4,047,000	\$337,000
Health District	5	\$1,340,000	\$268,000
Port	4	\$5,568,000	\$1,392,000
Other	4	\$471,000	\$118,000
Water & Sewer	3	\$144,000	\$48,000
Park & Recreation	2	\$172,000	\$86,000
	30	\$11,742,000	\$389,000

Fire districts represented the most occurrences in this year's sample at twelve, up from nine last year. Health districts (including those who deal with the aging population) represent five occurrences. If one looks at suffix counts, health districts would far outpace any other member type due to the 200+ individual claims associated with one occurrence on a "bad building" lawsuit. It seems likely this claim will eventually close without any contribution from the member. Ports, by far, generated the largest overall incurred values and the largest average loss per occurrence, related to two \$2 million + losses which are still in progress.

4. Loss Type

	Suffix Count	Total Incurred	Average Incurred
Automobile Liability	5	\$3,212,000	\$642,000
Automobile Property Damage	2	\$389,000	\$185,000
Cyber	3	\$314,000	\$105,000
Employment Practices	5	\$1,366,000	\$273,000
General Liability	8	\$769,000	\$96,000
Property	7	\$5,692,000	\$813,000
	30	\$11,742,000	\$391,000

Auto Physical Damage

The auto physical damage files reviewed were in order. Appraisals are being undertaken when appropriate and salvage is being dealt with properly.

Automobile Liability

There is only one significant automobile liability case in the sample. This file involves a fire truck that rear ended a privately owned vehicle being driven by an off-duty police officer who has some preexisting back conditions and has apparently undergone several medical procedures as a result of the accident. This case may be nearing conclusion at the posted reserve.

Cyber

There were three cyber files reviewed this year. In fact, this is the first cyber claim that has been reviewed in an Enduris audit. The first involved a breach of the member's computer system that was discovered by a security vendor. Personally identifiable information was compromised. The carrier was initially going to impose a \$100,000 deductible but Enduris was able to get that reduced to \$50,000 based on the insurer's misinterpretation of the pool's total insured values. Underwriters were also concerned about the fact that one of their approved vendors was not used in the mitigation process and wanted to enforce a loss cap, Last year we recommended that Enduris carefully monitor the selection of cyber identification and remediation to ensure compliance with this policy requirement. This appears to have been complied with on two new cyber losses reviewed this year.

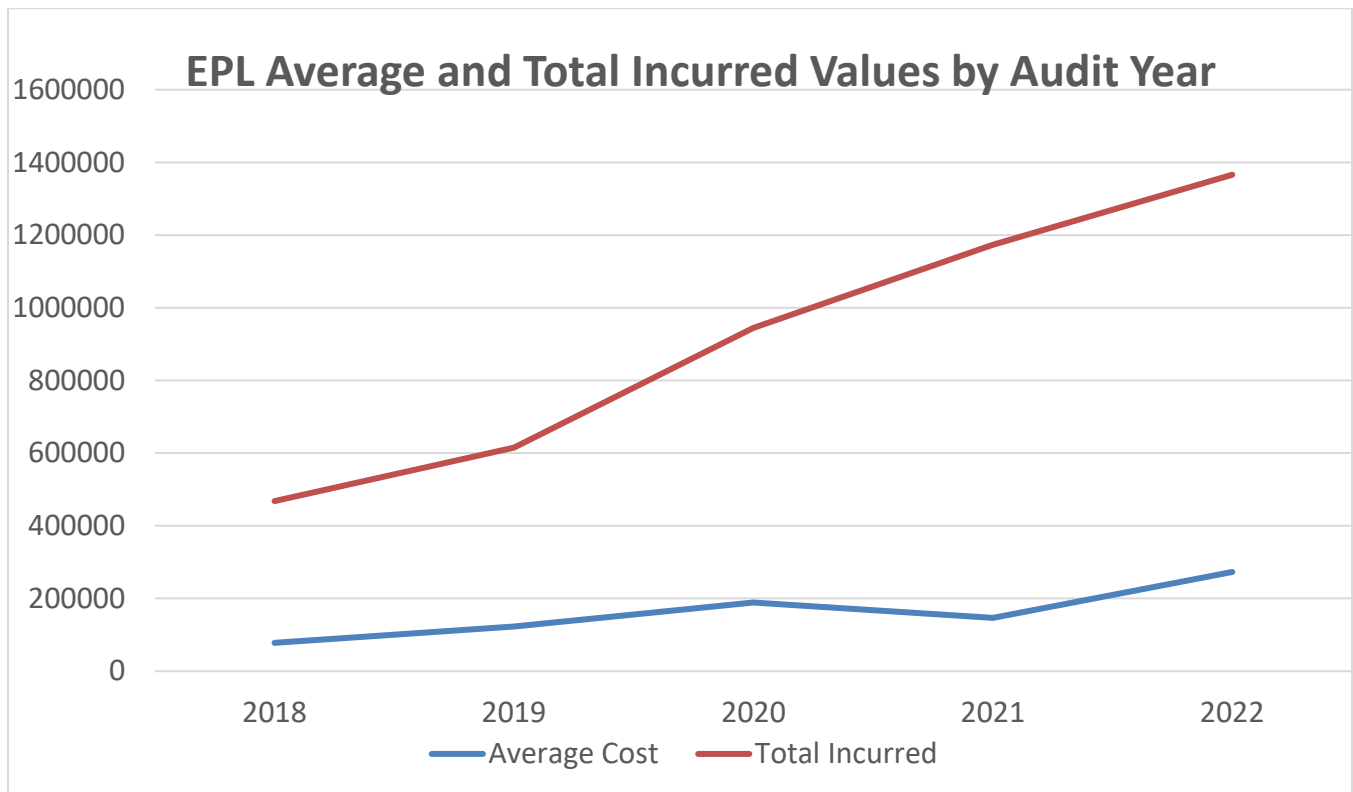
Employment Practices Liability

Litigated Employment Practices Liability (EPL) files examined over the past five years have trended as follows:

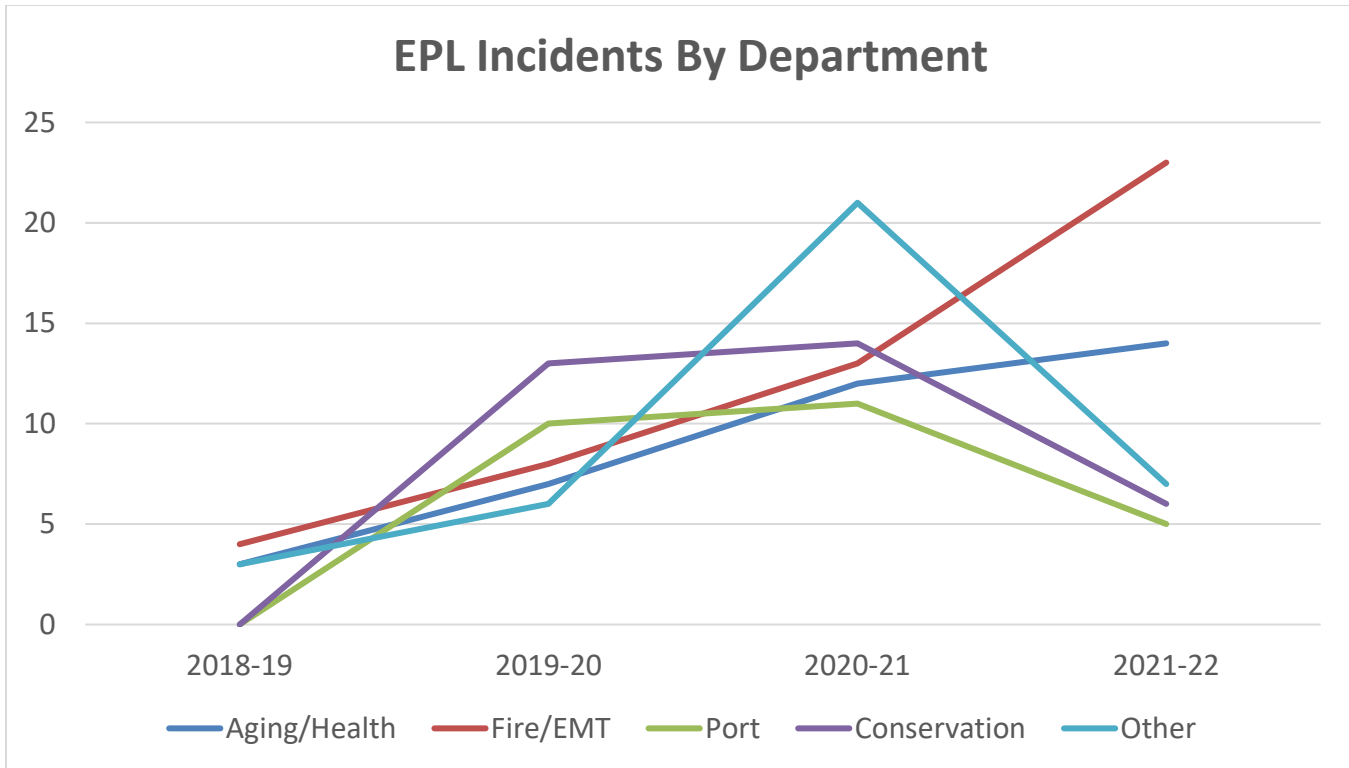
<u>Year</u>	<u>Count</u>	<u>Average</u>	<u>Total Incurred</u>
2018	6	\$78,000	\$468,000
2019	5	\$123,000	\$615,000
2020	5	\$189,000	\$944,000
2021	8	\$147,000	\$1,173,000
2022	5	\$273,000	\$1,366,000

The highest incurred value on an EPL claim this year is associated with file 121-007. A Health Officer who was a former Marine and an MD was terminated based on poor performance issues, but as is not unusual with EPL cases, there are politics involved which could cloud the liability picture and the claimant appears to want his day in court or payment plus reinstatement. This will be a difficult case to settle but will also be expensive to defend. Defense counsel owes Enduris a comprehensive report which needs to address the economic realities involved so that a determination on the most logical course of action can be made. EPL cases with claimants who present well are dangerous.

The average incurred value on litigated Enduris' EPL cases selected for audit has been steadily increasing over the past five years. The following exhibit illustrates the total incurred value of all EPL files audited in a particular year, as well as the average incurred value of those files.



Enduris tracks all EPL incidents along with payments made for pre-litigation activity undertaken on a member's behalf focused on reducing or eliminating exposure to a lawsuit. Recent EPL incident activity is summarized below. Incident counts are based on the date of loss and policy year. The 2020-2022 policy year is not fully developed. Additional incidents from that year can be anticipated. There are likely many incurred but not reported ("IBNR") EPL files that will be added to these values over the next 18 months. It should be anticipated that the values for the 2021-2022 year will trend upwards on a curve similar to that seen over the prior two years.



Fire and EMT have generated the highest number of EPL incidents over the past five years. They represent 25% of all activity withing that time frame. Interestingly, conservation districts are generating what seems to be a disproportionately high number of claims.

In audits before 2018, we had recommended adding staff to supplement Ms. Brandt, who was then the only staff member involved in managing the pre-litigation program. This was accomplished in 2019 through the addition of Ms. Looker and expanding the claims staff and has been maintained through the addition of Ms. Nelson. Enduris also uses the services of a retired defense attorney who works part time and focuses on the pre-litigation EPL files. These are all prudent steps, as the number of potential (pre-litigation) and actual (claim filed) EPL claims continues to increase year over year.

2018 -2019	2019-2020	2020-2021	2021-2022
10	44	71	57*

*Claims count for the 2021-2022 year will increase as incurred but not reported claims are added in the future

General Liability

The loss experience associated with general liability claims reviewed this year (\$96,000) is in line with the last few years. There do not appear to be any GL claims presenting significant excess exposure. File 118-005 involves a “bad building” lawsuit in which over 200 claimants alleged exposure to toxic chemicals. The district involved is now out of case, where there was a large verdict against Monsanto. It is possible that the appellate process will reactive this case, but ultimately, exposure is very doubtful, and the file is now closed. File 121-009 is another case involving questionable liability on an alleged chemical overspray. Liability and damages both present challenges for the plaintiff, but defense costs could be substantial, and an expense reserve increase may be appropriate.

Property

The average value on the five (5) property claims examined last year was \$1,180,000 which was substantially higher than in previous years. This resulted from the fact that two of the files examined had seven-figure values.

This year seven (7) files were reviewed with an average value of \$813,000. Again, two large losses drove the average value up. Executive general level adjusters were immediately involved in both claims in collaboration with the insurer and their preferred independent adjusting company, McLarens. This is appropriate, as the partnership between underwriters, McLarens, the broker and Enduris has existed for over a decade and all parties agree on the adjustment process and how it will work. On the remaining five (5) property files, file handling by Enduris was appropriate. There were no instances of gratuitous coverage decisions as seen several years ago, and attention to validating losses has remained in effect. There were some business decisions made on subrogation that will be discussed in that section of the report.

B. Staffing Issues

Susan Looker took over as Claims Manager in 2018. Susan brought over 16 years of claims management experience to Enduris. She departed in late 2021 and was replaced by Holly Nelson. Ms. Nelson has over 25 year of claims management experience, as well as extensive supervisory experience. Holly manages a personal caseload of about 20 of the larger files, many of which have multiple suffixes. Ten (10) of the files audited this year were handled at the claims manager level (either by Susan in the latter half of 2021 or Holly in 2022).

The additions to claims staff over the past three years have allowed for a best practices level of supervision on claims files. There is clear evidence in all files reviewed this year of management layer supervision, both by Ms. Looker in 2021 and by Ms. Nelson in 2022.

Staff Member	# of files examined	Total Incurred	Average Incurred
Holly Nelson	8	\$2,632,000	\$329,000
Susan Looker	2	\$335,000	\$168,000
Carrie Miller	7	\$4,279,000	\$611,000
Lisa McKeekin	9	\$4,348,000	\$483,000
Kathy Johns	2	\$28,000	\$14,000

Carrie Miller was added as a Claims Analyst to manage mid-sized losses and, initially, to oversee files which had been assigned to Evergreen during a transitional period addressed in the 2019 audit. The number of files being assigned to Evergreen for full handling is now minimal. They, and other outside adjusters, are used on an as needed basis. Carrie's open caseload last year was 49 files. She will be retiring, and her cases will be distributed to other adjusters.

In recognition of the size and spread of the membership, Lisa McMeekin was also added as a Claims Analyst with principal responsibility for claims occurring in the western part of the state in the middle of 2019. Lisa had a caseload of 51 files last year, which is now at 66.

Karen Easterday was added to staff in 2021. She handles smaller claims, which were not the subject of the audit. Her caseload is currently 78 files.

Caseloads and the nature of the files assigned to adjusters or handled by Ms. Nelson are appropriate. All adjusters are doing an excellent job of documenting their files. On property files, there is much tighter scrutiny going on relative to what is a covered loss versus what is a maintenance issue. This is an area where the entire Enduris staff has shown significant improvement. In instances where there is a reasonable doubt about a maintenance or replacement cost issue, the member is usually compensated, but only after an appropriate review of the facts, and solid documentation, including comprehensive notes, regarding the decision.

C. Reserving

Reserving (projecting the ultimate future costs of investigating, settling and/or defending) is very good. There are a few files where Enduris could be more assertive in getting defense counsel to make specific recommendations regarding defense versus settlement in order to allow for proper reserving in each category. Examples include files 119-123 and 121-009. The expense reserve on file 119-076 is optimistic; this is a serious case. The loss reserve on property damage claim C10213 will need a substantial increase based on recent developments.

D. Investigation/Contact/File Control

The addition of in-house adjusters over the past two years has raised the level of attention to detail on investigations, continuous contact with members and claimants, and overall file control. Examples can be seen in many files including 120-117 and 121-301. We believe that additional investigation is needed on 120-292. When needed, outside adjusters have been retained to undertake an investigation, especially in locations where it is difficult for Enduris staff to reach. All the investigations undertaken by outside adjusters were in order.

E. Communications with Excess/Reinsurers

There were no files where late or under-reporting to excess or reinsurance is an issue. The retention on Auto Physical Damage is \$100,000, on Property is \$250,000 and on casualty is \$1,000,000. Reporting is triggered when the primary incurred values exceed half of the retention (or, in the case of casualty files, when certain reportable classes like death and paraplegia are involved, regardless of reserves). Ongoing communication with excess carriers on the large losses examined is good. No instances of an excess carrier or reinsurer asking for information on multiple occasions were found. Excess carriers are put on notice on large property claims on the day the files are created. The property underwriters, broker and Enduris have a long-term relationship with the adjusting company assigned to handle large losses. Good collaboration on large property losses is the norm.

F. Litigation Management

Nine of the files examined included some level of attorney involvement. Litigation management is good. A limited number of attorneys are used, generally with certain firms used for specific types of litigation like employment practices. Relationships with the defense firms are all long term.

Standardized reporting formats are used, insuring consistency in reporting. In most cases, attorney reporting is on a good diary. Legal fees are under control, and there is good evidence of communication between staff and counsel in the files. As addressed in the reserving caption, there are a few files where defense counsel has been slow in responding to requests for comprehensive reporting (particularly 119-123 where this has been requested three times). The comfort level with long term relationships is good; however, it can lead to a bit of complacency on counsel's part. This should be addressed.

Enduris is involved in an interesting statute of limitations case (117-003) which is now before the Washington State Supreme Court. Several other Washington pools have filed Amicus Briefs in support of Enduris' position.

G. Settlement/Case Resolution

All the settlements reviewed were in good order. On general liability claims, some examples include 119-038, 120-117, 120-252 and 120-292. Several years ago, Enduris often tended to pay for what appeared to be maintenance related issues on some property claims. There is now good attention to detail on this issue. File 127-137 was the only property file where this could have come into question, but the carrier has agreed to full payment.

H. Coverage/Contractual Issues

There were no instances of questionable coverage decisions. There is good recognition of opportunity for risk transfer where other coverage may be in effect for a member. Appropriate reservation of rights letters are being sent out on EPL claims alerting members as to what wages are and are not covered.

I. Deductibles/Subrogation/Salvage/Recovery

Appropriate deductible recovery was found in all files examined, Overall, the pursuit of subrogation is excellent and consideration for and disposal of salvage is well managed. In two of the files reviewed (C10077 and C10162) member deductibles were waived in anticipation of full subrogation recoveries. In most instances, where liability is clear and there is another insurer involved, this would apparently make sense; however, coverage questions and limits issues can arise with a responsible party's insurer, as could be the case in both of these losses. While waiving a deductible is member friendly, it should be done cautiously. File 119-096 presented complex liability issues, but a reasonable compromise was eventually reached.

J. Claims Management Information System

Origami has now been in place for over four years. This software running very smoothly. Origami has resulted in a "paperless environment". It is user friendly. We were able to accomplish the audit remotely using Origami with a minimum of complications.

K. Client Satisfaction Survey

The 2021 Claims Satisfaction Survey was reviewed as part of this audit. Over 90% of the responses rated Enduris' claims service as excellent or good. Over 85% rated claim staff interaction as excellent, with another 10% as good; 95% excellent or good is a strong endorsement. These results are consistent with the quality of work and documentation found in the audit.

L. Management

Ms. Nelson's involvement in files is well documented in file notes, including suggestions and instructions given to the adjusters. All files reviewed now clearly document regular supervisory level review, typically on a quarterly basis, regardless of their nature (property, auto physical damage and general liability). The notes added by Ms. Nelson to the claims files add value to the adjustment process.

M. Heat Map Analysis

The audit report includes an excel spreadsheet providing a visual summary of audit results. No color indicates that the entity is meeting industry standards. This year's exhibit clearly supports that Enduris is doing a good job of claims handling.

N. Summary

The files audited were almost all very well handled, well documented and generated the proper financial result. This year there are few negative comments on the files involved.

Thank you for allowing me to continue to act as your business partner. Should you have any questions or comments regarding this report or the enclosures, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Bowlus". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Craig Bowlus, ARM
Managing Director | Risk Pooling
Aon Risk Services