



# WAYPOINT LITIGATION AVOIDANCE OVERVIEW

Gallagher Bassett launches industry-leading solution to lower litigation rates and address one of the largest drivers of cost on workers' compensation claims

## Summary

**Problem:** Litigated workers’ compensation (WC) claims account for ~10% of all claims but represent ~60% of the total cost. Attorney-involved WC indemnity claims, on average, cost approximately six times as much as non-attorney-involved claims, demonstrating how even a small reduction in the percentage of attorney-involved claims could have a large impact on reducing claim costs.

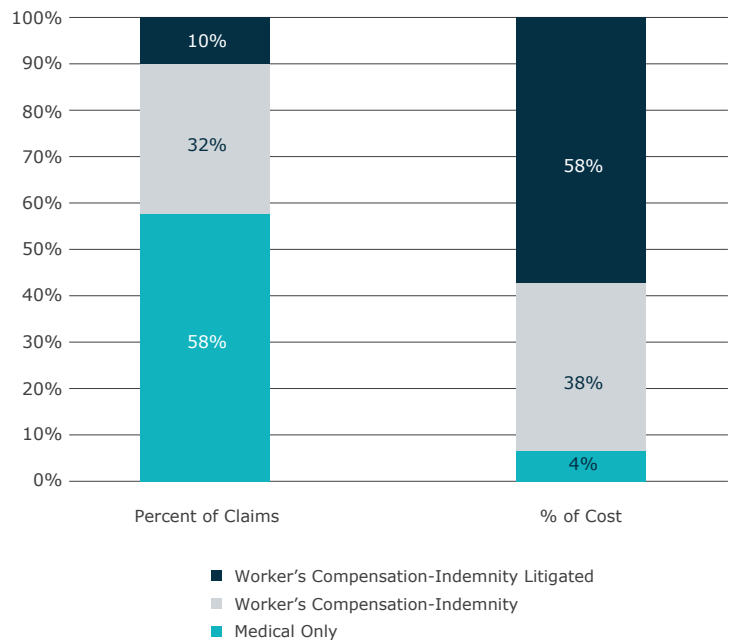
**Solution:** Gallagher Bassett (GB) developed a machine learning-enabled tool that flags claims with high likelihood of litigation and presents clients with mitigation strategies to reduce the number of claims being litigated.

**Result:** A year-long pilot has shown promising outcomes, including an 18% reduction in attorney-involved claims, a 10% reduction in total incurred, and an 8% reduction in total paid.

## Understanding the Problem

Despite the promise of WC representing “the great compromise,” the ironic reality is that all too often, WC claims result in costly litigation. Workers’ Compensation Law was originally established to provide guaranteed benefits to injured workers who previously had to fight prolonged and uphill legal battles to receive settlements for workplace-related injuries. Essentially, WC laws eliminated the need for injured workers to prove that their injury was not the result of contributory negligence, the fellow servant rule (fellow employee), or due to their assumption of risk.

Yet in spite of WC law's efforts, employees still routinely seek attorney involvement and actively litigate matters against their employers’ WC insurance carriers for a number of reasons, ranging from lack of trust or ambiguity with the process, to perceived unfairness, or to simply seek retribution from their employer. In the last twenty years, the percentage of WC claims being litigated has hovered around 9–10%, resulting in ~60% of all WC claim costs. The fact is, litigation remains a significant cost driver in the WC system, a flaw that we believe can and should be rectified.



Figures above represent claim volume and cost at 36 months maturity

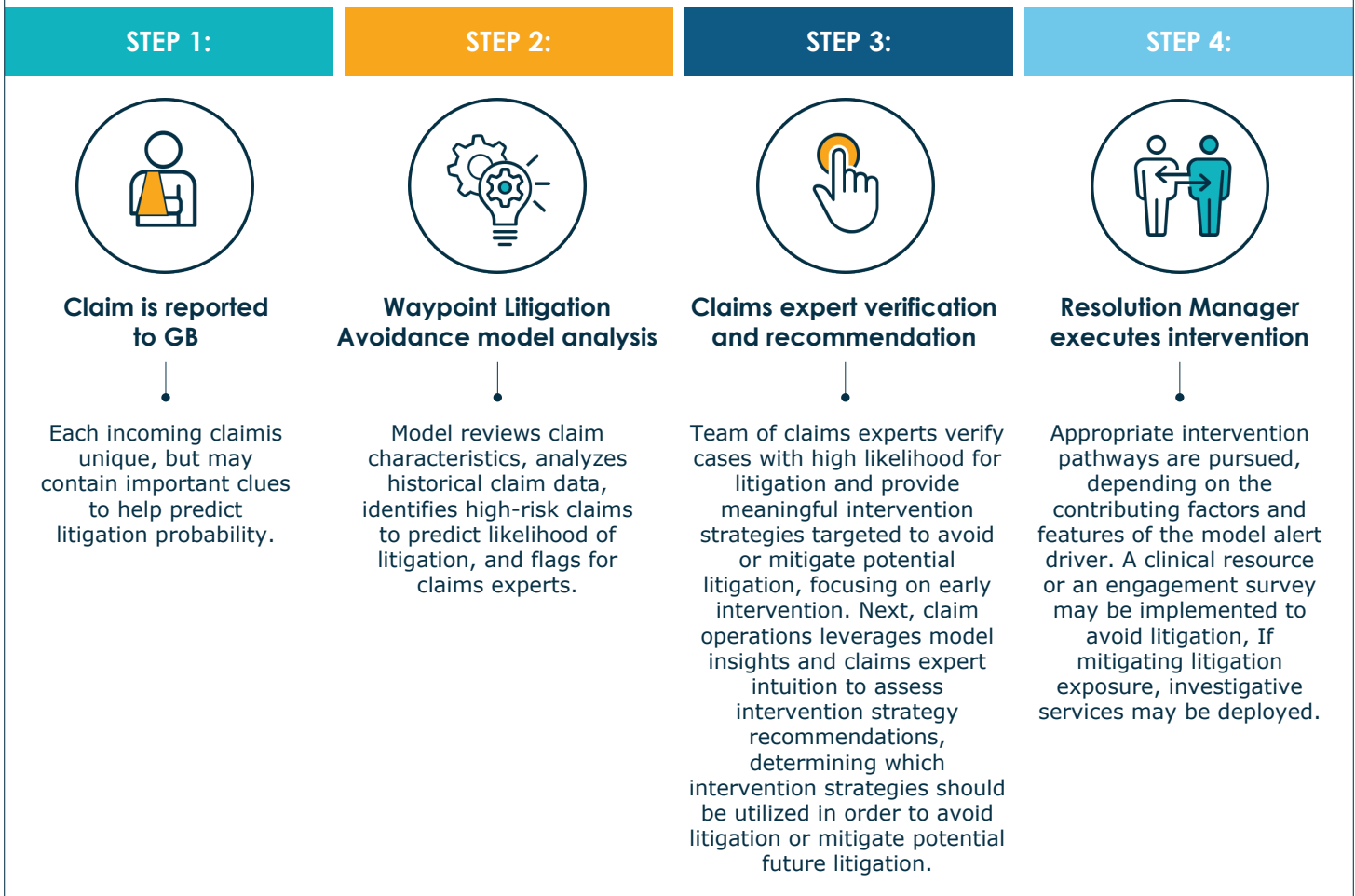
**Litigated Claims Drive ~60% of the Cost**

## Building a Litigation Propensity Solution

Drawing on our extensive claims experience and decades of WC claims data, GB developed our **Waypoint Litigation Avoidance model** to predict which WC claimants are more likely to be litigated, intervene appropriately on such claims, and ultimately lower rates of attorney involvement and mitigate the development of claims that become litigated. Leveraging the power of our tool’s machine-learning capability, we are able to analyze millions of WC claims to identify sixteen unique factors that contribute to a claim being litigated — for example, occupation, nature of injury, jurisdiction, claim report lag, case acceptance or denial — and combine this with the experience and skills of tenured claims handlers.

Our proprietary machine-learning model processes all incoming claims for participating clients and reviews claim characteristics to predict the likelihood of litigation. The model flags each claim with a significant probability of litigation. Our model (inclusive of claims expert intervention strategies) will determine the root cause of probable litigation and, based on this root cause, take appropriate action. We integrate the human experience into the process, whereby claims experts review claims flagged as having a high potential for litigation.

### Waypoint Litigation Avoidance Model Intervention Workflow



Based on the unique nature of each claim, our claims experts will recommend one of three appropriate intervention mitigation pathways. For claims involving severe injuries, where a claimant’s motivation is likely driven by a fear of the unknown, our best-practice intervention approach is to assign a clinical case manager to help the injured worker navigate next steps, such as physician appointments and physical therapy treatments that help guide that employee back to health as quickly as possible.

**LITIGATION DRIVERS & RECOMMENDED ACTIONS**



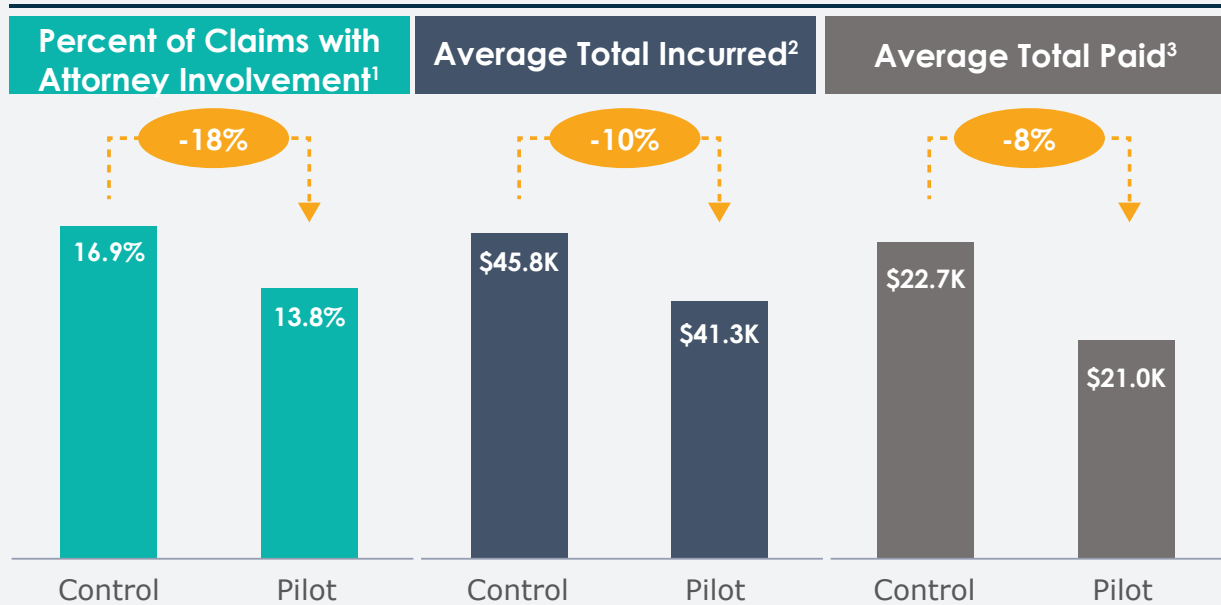
For claims in which the model identifies extended or prolonged duration as a likely root cause of litigation, claims experts will recommend greater outreach and engagement through additional calls, emails, and/or a mobile app that provides immediate access to their claims handler, appropriate providers, information about indemnity payments and more. All of these additional outreach efforts are designed to allay potential concerns about lack of trust in the WC process.

Lastly, for claims where treatment is challenged or denied or there is an extended reporting lag on the part of the employee, the best strategies tend to involve preparation to defend our clients against litigation and a thorough investigation into the nature of the incident, potentially including claimant surveillance to help identify potential fraud. Having better insight into pending litigation allows for a more robust defense and therefore greater probability of mitigating the cost of litigated claims.

**PILOT DESIGN**

- **GOAL**  
Determine and qualify the extent to which utilization of the Waypoint Litigation Avoidance model improved claim outcomes.
- **DESIGN**
  1. The strategy was piloted for a representative sample of claims across various industries.
  2. Claims were scored and blindly assigned to either the pilot group — administrated in accordance with the new strategy—or a control group with no changes to strategy.
  3. Exposure standards for minimum credibility of the pilot was achieved after 12 months of pilot operation and outcomes were measured.
- **MEASUREMENT**  
Financial and legal metrics, identified as leading indicators of the strategy’s success, were analyzed throughout the pilot's duration, measured relative to the control group, and statistically qualified within tolerance range.

### PILOT RESULTS



Valuation of pilot experience from March 1, 2022 to February 28, 2023 for WC-I claims flagged by the Waypoint Litigation Avoidance model. Resulting pilot outcomes are fully credible at an 84.3% confidence level.

<sup>1</sup>Attorney Involvement defined as claims with initial attorney fee expense payments during pilot period.

<sup>2</sup>Total Incurred per claim, net of recoveries and capped at \$750K.

<sup>3</sup>Total Paid per claim, gross of recoveries and capped at \$750K

### The Results

GB has meticulously deployed this decision support and intervention tool in collaboration with nationwide clients across various industries. A year into our pilot testing, we have seen positive outcomes across many claim KPIs for the pilot group relative to the control, including an 18% reduction in attorney-involved claims, a 10% reduction in total incurred, and an 8% reduction in total paid. Attorney-involved WC indemnity claims, on average, cost approximately six times non-attorney-involved WC indemnity claims. Therefore, even a small reduction in the percentage of attorney-involved claims can have a large impact on reducing claim costs overall.

