#### **Management Advisory Report**

# GOVERNANCE: Injury Claims Trend Data for Fiscal Years 2010 through 2013

Certain information in this report has been redacted due to its confidential nature.

Report No. OIG-MAR-2014-008 | July 17, 2014









#### Memorandum

To:

Joseph H. Boardman

President and Chief Executive Officer

From:

Tom Howard / Com Howa

Date:

July 17, 2014

Subject:

Governance: Injury Claims Trend Data for Fiscal Years 2010 through 2013

(Management Advisory Report No. OIG-MAR-2014-008)

Every company that provides passenger rail service faces the risk that employees, passengers, trespassers, invitees, and other persons may be injured or claim injury on company property, facilities, or equipment. Some injuries result in a claim, and those amounts can be substantial. These claims create a financial risk for Amtrak (the company) that must be carefully managed.

The Law Department's Tort Claims and Litigation Group (Claims group) manages all personal injury claims. The company's payments for claims settlement and judgments totaled \$103.5 million for fiscal year (FY) 2010 through FY 2013, with an estimated remaining liability of \$73.5 million. The company also incurred another \$39.4 million for medical costs, legal fees, consulting fees, surveillance costs, and other costs associated with these claims. This does not include salary, benefit, travel, and facility costs for the Claims group.

Our objective was to analyze personal injury claims data to identify trends and patterns that could be useful in managing the claims process. We used the Audit Command Language (ACL), a specialized data analysis software tool, to analyze 100 percent of the claims for FY 2010 through FY 2013 and extended one analysis to FY 2007 to FY 2009. During this process, we met with company officials and gave them the results of our analysis. We discuss our scope and methodology in Appendix A.

#### **Summary of Results**

We analyzed recorded incident¹ data on 16,288 claims that occurred from FY 2010 through FY 2013. Our analysis shows settlement payments, judgment payments, and other cost data for the fiscal year in which the claimant said the injury occurred—not the year in which payments were made. Therefore, all payments and costs associated with a claim for an injury that occurred in FY 2010 are allocated to that year. We show the detailed results of our work in Appendix B, and key highlights are summarized below:

- All claims. The company paid employees \$63 million and has an estimated remaining liability<sup>2</sup> of \$46.7 million on 4,658 employee claims. Comparatively, passengers were paid \$16.1 million and may receive another estimated \$13.4 million on 9,057 claims. Trespassers, invitees, and other claimants were paid \$24.5 million and may receive another estimated \$13.5 million on 2,573 reported claims. (See Appendix B, page 2.)
- Employee claims. Most employee claims (81 percent) are settled directly without legal representation or lawsuits. Claims that go through legal proceedings cost the company \$84.3 million (\$46.3 million paid and \$38 million in estimated remaining liability); claims settled directly cost \$25.3 million—\$16.7 million paid and \$8.6 million in estimated remaining liability. (See Appendix B, page 4.)
- Trend of employee settlement payment. For FY 2011, the payments for employee settlements and the remaining estimated liability was \$30,000; for FY 2012, \$22,000; and for FY 2013, \$15,000. However, that data is incomplete because employees have three years from the date of the incident to file a claim. Our analysis of data for FY 2007 through FY 2010—years for which all claims have been filed—show that the company paid \$32,600 in FY 2007; \$34,200 in FY 2008; \$30,400 in FY 2009; and \$29,350 in FY 2010 per claim. This suggests that

<sup>&</sup>lt;sup>1</sup> The company's claims information system defines an "incident" as an injury or accident that can result in multiple claims, depending on the number of people involved in that incident. All recorded incidents are potential claims against the company; however, all claims do not result in a payment. Approximately 61 percent of all reported and closed claims resulted in payment.

<sup>&</sup>lt;sup>2</sup> The estimated remaining liability is calculated by deducting the amount of money paid on open claims for such things as advances, railroad retirement taxes, supplemental sickness benefits, and Medicare set-aside costs from the initial Estimate of Liability that was developed when the claim was opened.

#### Amtrak Office of Inspector General

### Governance: Injury Claims Trend Data for Fiscal Years 2010 through 2013 Management Advisory Report No. OIG-MAR-2014-008, July 17, 2014

the company may be underestimating its liability for open claims in FY 2012 and FY 2013. (See Appendix B, page 5.)

- Trend of employee claims. The number of claims reported by employees increased by 70 percent—from 757 in FY 2007 to 1,285 in FY 2013. According to Claims group officials, the increase may be the result of employees' better understanding of reporting requirements. In 2009, the company started a safe-to-safer program that encouraged employees to report workplace injuries. (See Appendix B, page 5.)
- Employee claims by years of service. Employees in their initial years of employment—less than 10 years—made relatively more claims than employees with longer service. Employees with 30 or more years of service had the most expensive claims, averaging about \$47,000 per claim. (See Appendix B, page 7.)
- Number of employee claims by station. Employees assigned to New York's Penn Station had the most claims—395 (8.5 percent of the total). Employees assigned to Philadelphia's 30<sup>th</sup> Street Station had the most costly claims—almost \$7.9 million paid and \$4.6 million in estimated remaining liability. (See Appendix B, page 9.)
- Number of employee claims by department. The Transportation department had the most employee claims, 2,107 (45.2 percent of the total); the most costly claims —\$29.7 million paid and almost \$18.8 million in remaining estimated liability. (See Appendix B, page 10.) Train conductors had the highest number of claims (11.6 percent of the total) and the most costly claims—\$8.2 million paid and \$4 million in remaining estimated liability. (See Appendix B, page 11.)
- Number of employee claims by union. Members of the Amtrak Service Workers Council—mainly onboard service attendants and chefs—had the most reported claims (14.4 percent of the total) compared to other unions. Members of the Brotherhood of Maintenance of Way Employees on Northeast Corridor—mainly Engineering department railroad crews—had the most expensive claims (\$14.6 million paid, and \$8.5 million in remaining estimated liability). (See Appendix B, page 12.)
- **Types of injuries.** The most frequent type of employee injury claims (23 percent) were sprains. Injury settlements for sprains also cost the company the most—nearly \$19.3 million paid and \$10.1 million in estimated remaining liability. (See Appendix B, page 13.)

- Causes of claims. Lifting, bending, and pulling were the most frequently cited injuries, accounting for 14 percent of claims. Slipping, tripping, and falling on level surfaces accounted for the most expensive employee claims—\$13.5 million paid and \$8.9 million in estimated remaining liability. (See Appendix B, page 14.)
- Multiple employee claims. Almost 30 percent of the claims (1,382) involved employees who have filed more than one claim. These claims accounted for about \$24 million—22 percent of the total settlement amount paid or estimated to be paid. (See Appendix B, page 18 and 19.)

Our analysis shows various injury claim trends and patterns. We believe that this data provides management with information that will be useful in managing the claims process and potentially reducing injuries.

#### Appendix A

#### SCOPE AND METHODOLOGY

This management advisory report provides information on employees and others who have an injury incident recorded in the company's claims information system. We obtained data for all the claims from FY 2007 through FY 2013 (October 1, 2006, through September 30, 2013) that were filed on or before February 28, 2014. We analyzed all the claims for FY 2010 through FY 2013, and extended one analysis to FY 2007 to FY 2009 employee claim data in order to present a longer universe of profile and trend data.

Using ACL, we performed several tests to analyze the data; our methodological approach was to profile the data and identify the trends on injury claims. We performed our work from March through June 2014. We conducted this analysis in accordance with standards we developed for alternative products. Certain information in this report has been redacted due to its confidential nature.

#### **Internal Controls**

Although we did not conduct a detailed assessment of the adequacy of internal controls for the claims data, we did validate the results of our analysis. We selected samples of test results and compared them with the source data to ensure that automated programs were producing accurate results based on the established ACL test criteria.

#### **Use of Computer-Processed Data**

To achieve our objective, we relied on computer-processed data in Amtrak's claims database. We loaded this data into ACL and then selected a sample of 33 out of 4,658 employee claims to compare them against source data in the claims information system in order to reasonably assure that the data was accurate. Based on this test, we concluded that the data are sufficiently reliable to meet our objectives.

#### **Prior Report**

We reviewed the following audit report for potential relevance to our work:

• Claims Program: Use of Best Practices Would Strengthen Management Controls (OIG-A-2012-016, August 14, 2012)

#### **Appendix B**

#### INJURY CLAIMS TREND DATA FOR FISCAL YEARS 2010 THROUGH 2013

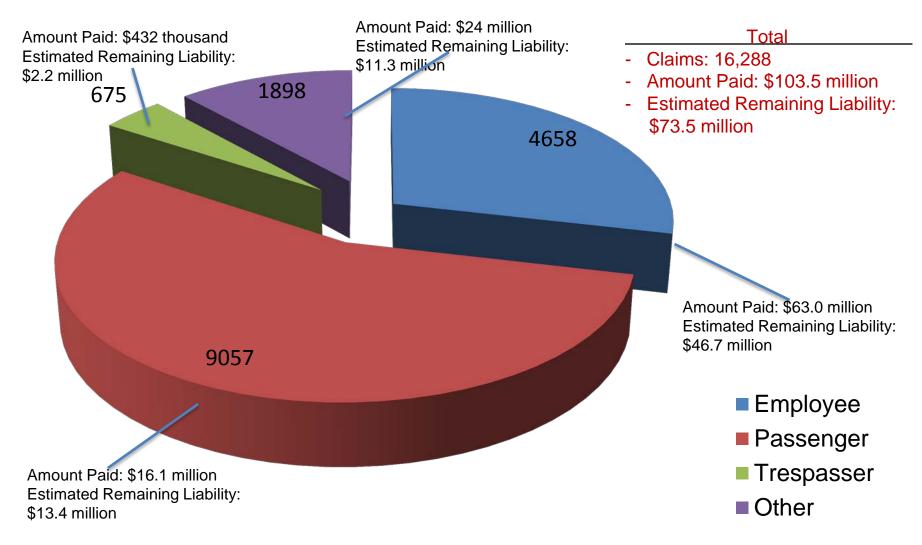
On April 28, 2014, we briefed the detailed results of our work to Law department officials. Based on that briefing and feedback from Law department officials, we developed the following final briefing.

### **Appendix B**

# Governance: Injury Claims Trend Data for Fiscal Years 2010 through 2013

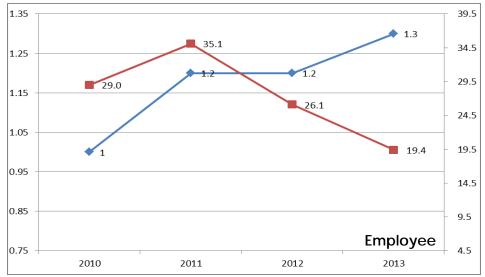


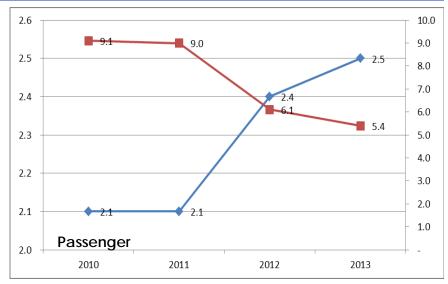
### **Claims by Claimant Type**

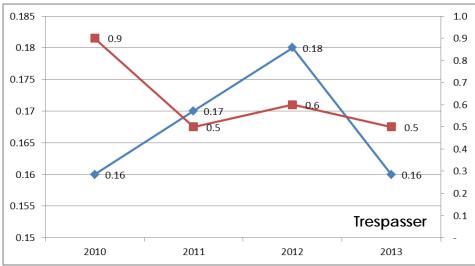


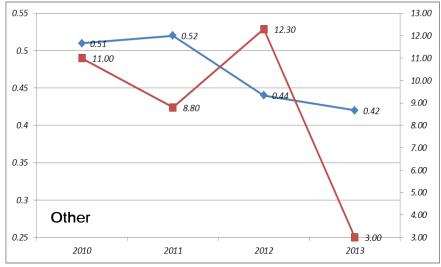


### **Trend by Claimant Type**







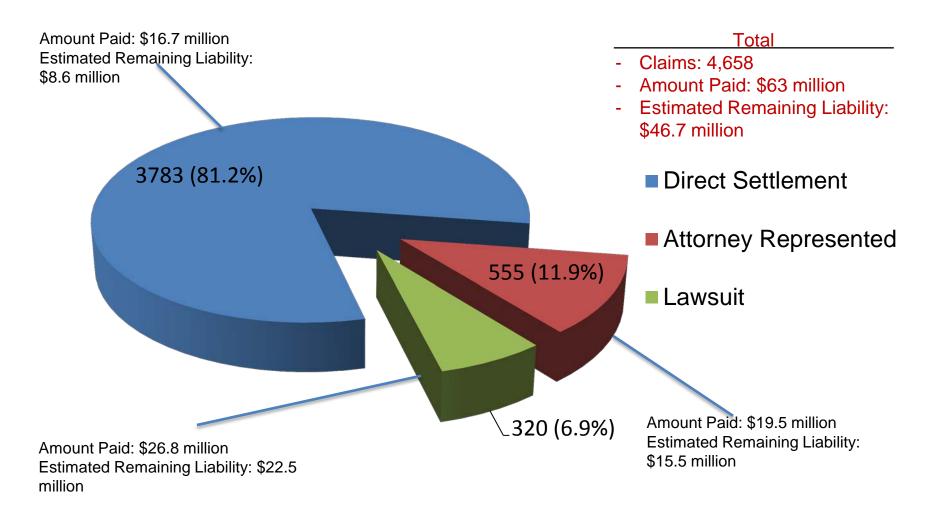




Number of Claims (in thousands)

Settlement paid or liability accrued (in millions)

#### **Number of Employee Claims by Type**

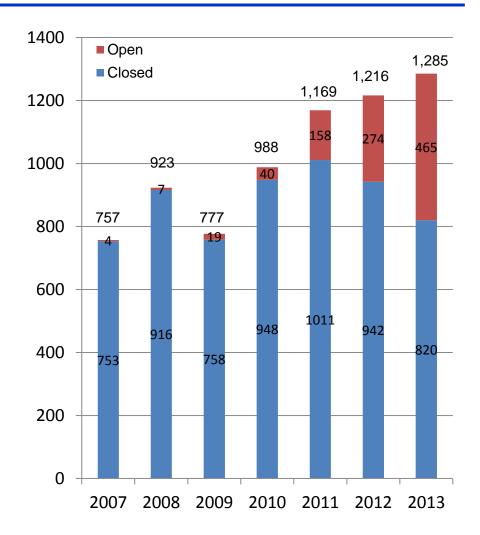




Approximately 61% of the closed claims resulted in payment.

### **Employee Claims by Fiscal Year**



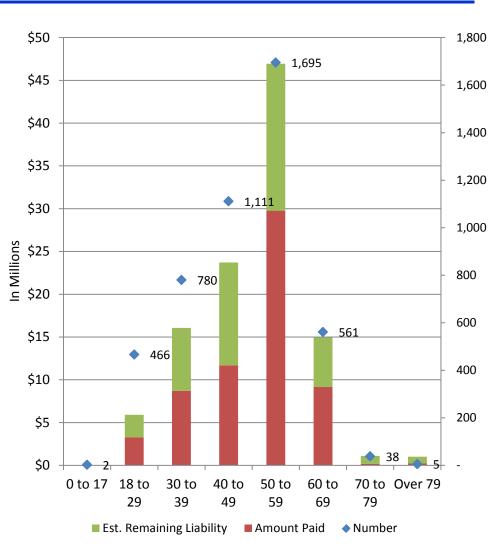


Notes:

Amount for claims paid over multiple years are accumulated in the year of Incident/accident. Employees have 3 years to file a claim. Not all claims for 2011, 2012, and 2013 may have been filed.

### **Employee Claims by Age Group**

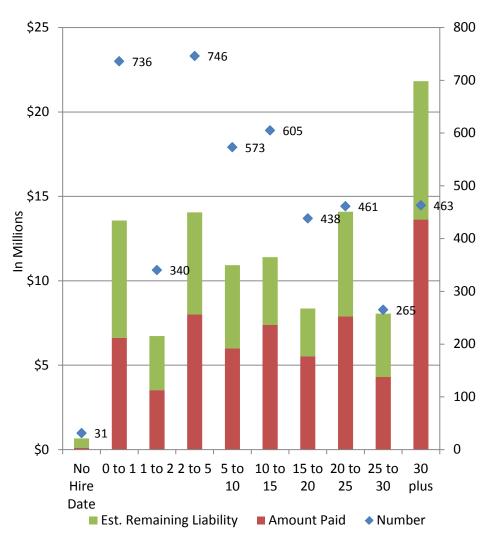
Age Range	Number	Amount Paid	Est. Remaining Liability
0 to 17	2	\$0	\$0
18 to 29	466	\$3,247,659	\$2,654,798
30 to 39	780	\$8,719,986	\$7,341,686
40 to 49	1,111	\$11,688,676	\$12,029,641
50 to 59	1,695	\$29,770,206	\$17,174,768
60 to 69	561	\$9,165,561	\$5,774,293
70 to 79	38	\$162,700	\$936,500
Over 79	5	\$225,000	\$775,000
Total	4,658	\$62,979,787	\$46,686,687





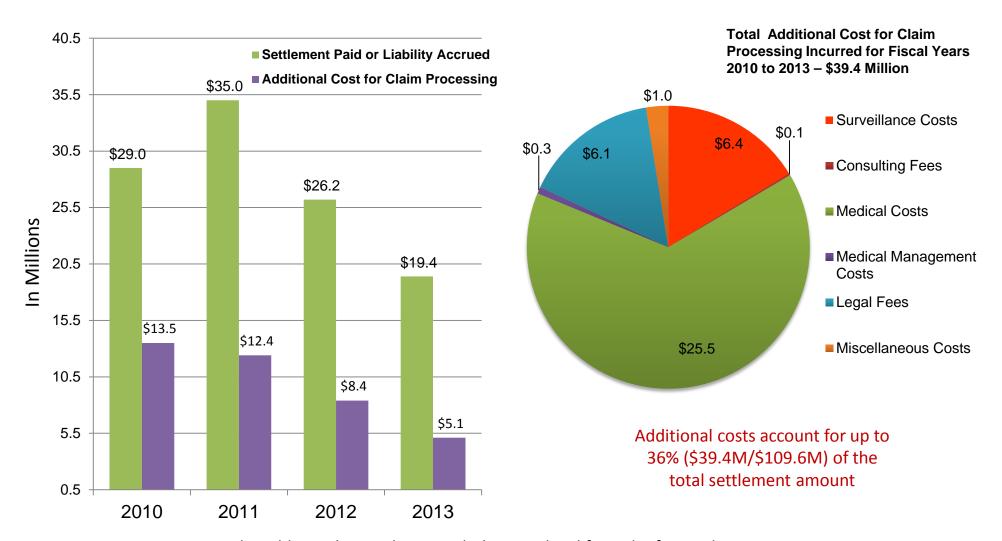
### **Employee Claims by Years of Service**

Years of Service	Number	Amount Paid	Est. Remaining Liability	Average per claim
No Hire Date	31	\$111,890	\$547,500	\$21,271
0 to 1	736	\$6,617,465	\$6,956,351	\$18,443
1 to 2	340	\$3,525,771	\$3,198,681	\$19,778
2 to 5	746	\$8,009,189	\$6,045,484	\$18,840
5 to 10	573	\$5,985,183	\$4,941,432	\$19,069
10 to 15	605	\$7,384,242	\$4,017,000	\$18,845
15 to 20	438	\$5,533,268	\$2,822,500	\$19,077
20 to 25	461	\$7,881,226	\$6,214,849	\$30,577
25 to 30	265	\$4,302,267	\$3,748,708	\$30,381
30 plus	463	\$13,629,288	\$8,194,181	\$47,135
Total	4,658	\$62,979,787	\$46,686,687	\$23,544





#### **Claim Settlement Amounts and Additional Costs**





Note: The additional costs do not include some legal fees, the fee paid to Managing Care Managing Claims (MCMC) for handling claimants' medical needs, and company costs of the Claims department.

### **Employee Claims by their Work Location (Top Ten)**

Work Location	Number	%	Amount Paid	Est. Remaining Liability
New York Penn Station	395	8.5%	\$5,350,665	\$3,248,675
Los Angeles Offices	268	5.8%	\$4,120,894	\$1,351,500
Philadelphia 30th Street Station	259	5.6%	\$7,896,574	\$4,575,000
Beech Grove Maintenance Facility	176	3.8%	\$2,083,016	\$984,288
Chicago Crew Base	158	3.4%	\$2,552,582	\$1,379,500
Transportation Bldg.	156	3.3%	\$1,919,571	\$1,913,362
NY Sunnyside Yard	153	3.3%	\$1,898,438	\$3,165,500
Ivy City Maintenance Facility	136	2.9%	\$2,440,017	\$1,521,625
Bear Car Shop	128	2.7%	\$958,299	\$1,873,110
CA Reservation Sales Office	123	2.6%	\$45,000	\$271,000
Other Work Locations	2,706	58.1%	\$33,714,731	\$26,403,125
Total	4,658	100.0%	\$62,979,787	\$46,686,687



### **Employee Claims by Department (Top Ten)**

Department	Number	%	Amount Paid	Est. Remaining Liability
Transportation	2,107	45.2%	\$29,700,635	\$18,753,897
Mechanical	1,126	24.2%	\$13,388,694	\$12,583,031
Engineering	867	18.6%	\$16,745,079	\$11,654,931
Police	219	4.7%	\$1,046,712	\$1,700,328
Marketing and Sales	172	3.7%	\$514,046	\$415,000
Finance	68	1.5%	\$816,934	\$451,000
<department available="" description="" not=""></department>	50	1.1%	\$613,452	\$747,500
Office of Inspector General	18	0.4%	\$135,536	\$313,000
Human Capital	12	0.3%	\$250	\$58,000
EVP and General Counsel	6	0.1%	\$15,000	\$0
Other Departments	13	0.3%	\$3,450	\$10,000
Total	4,658	100.0%	\$62,979,788	\$46,686,687



### **Employee Claims by Occupation (Top Ten)**

Occupation	Department	Number	%	Amount Paid	Est. Remaining Liability
Conductors	Transportation	542	11.6%	\$8,252,771	\$4,060,962
Engineers	Transportation	332	7.1%	\$5,846,748	\$2,876,275
Service Attendants	Transportation	316	6.8%	\$5,087,811	\$2,231,166
Coach Cleaners	Mechanical	179	3.8%	\$1,695,066	\$1,170,074
Police Officers	Police	175	3.8%	\$982,052	\$1,378,328
LSA Café/LNG	Transportation	172	3.7%	\$1,891,557	\$1,311,724
Ticket/Accounting Clerk	Transportation	137	2.9%	\$1,518,646	\$659,510
Carmen Journeymen	Mechanical	110	2.4%	\$1,526,504	\$1,220,667
R&I Clerk	Marketing & Sales	99	2.1%	\$121,671	\$244,000
Electrical Journeymen	Mechanical	90	1.9%	\$1,370,029	\$432,222
Other Occupations	Various	2,506	53.9%	\$34,686,931	\$31,101,759
Total		4,658	100.0%	\$62,979,786	\$46,686,687



### **Employee Claims by Union (Top Ten)**

Union	Number	%	Amount Paid	Est. Remaining Liability
Amtrak Service Workers Council (Chefs, LSAs, etc.)	669	14.4%	\$9,317,437	\$6,154,890
Brotherhood of Maintenance of Way Employees on Northeast Corridor	628	13.5%	\$14,558,863	\$8,526,045
Joint Council of Carmen, Helpers and Coach Cleaners	544	11.7%	\$6,248,605	\$5,622,851
United Transportation Union-Off Corridor (Conductors and Assistant Conductors)	346	7.4%	\$4,792,639	\$1,984,300
International Brotherhood of Electrical Workers (Electrical Journeymen)	306	6.6%	\$4,240,778	\$2,969,045
Transportation Communication Union–Off Corridor (Station Attendants)	238	5.1%	\$2,395,971	\$1,025,260
Brotherhood of Locomotive Engineers-Off Corridor	234	5.0%	\$4,476,173	\$2,101,275
Fraternal Order of Police	214	4.6%	\$1,046,712	\$1,695,328
United Transportation Union–Northeast Corridor (Conductors and Assistant Conductors)	205	4.4%	\$3,720,131	\$2,436,662
Transportation Communication Union–Off Corridor– Reservation and Sales Office	167	3.6%	\$514,046	\$415,000
Other Unions	1,107	23.8%	\$11,668,432	\$13,756,030
Total	4,658	100.0%	\$62,979,787	\$46,686,687



### **Employee Claims by Injury (Top Ten)**

**AMTRAK®** 

Type of Injury	Number	%	Amount Paid	Est. Remaining Liability
Sprain	1,096	23.5%	\$19,275,208	\$10,115,405
Contusion	893	19.2%	\$8,696,449	\$6,879,851
<no available="" description="" injury=""></no>	454	9.7%	\$2,053,717	\$1,168,500
Laceration	409	8.8%	\$1,556,698	\$491,737
Hearing Loss Occupational	319	6.8%	\$103,500	\$150,000
Other <an claims="" database="" in="" injury="" type=""></an>	173	3.7%	\$4,610,473	\$1,014,250
Fracture	149	3.2%	\$7,540,829	\$4,412,549
Other Respiratory	98	2.1%	\$426,101	\$447,500
Sprain/Strain	95	2.0%	\$2,131,028	\$3,291,760
Strain	87	1.9%	\$2,631,908	\$958,425
Other Injury Types	885	19.0%	\$13,953,876	\$17,756,710
Total	4,658	100.0%	\$62,979,787	\$46,686,687

### **Employee Claims by Cause (Top Ten)**

Cause	Number	%	Amount Paid	Est. Remaining Liability
Lifting Incident, Including Bending, Pulling	652	14.0%	\$8,304,336	\$7,770,407
Slip, Trip, Or Fall On Level Surface	626	13.4%	\$13,476,971	\$8,864,611
Struck By Flying Or Falling Object	371	8.0%	\$7,042,097	\$3,606,150
Standard Threshold Shift (Hearing Tests)	355	7.6%	\$8,000	_
Using Hand Tools Or Operating Shop Machinery	246	5.3%	\$1,452,954	\$836,500
Bumping, Walking, Or Running Into Fixed Object	241	5.2%	\$1,095,938	\$857,238
Repetitive Motion	229	4.9%	\$7,324,424	\$3,956,469
Insect, Animal, Or Vermin Bite	182	3.9%	\$67,710	\$113,250
Exposure To Hazardous Substance	167	3.6%	\$406,470	\$476,110
Other <a category="" cause="" claims="" database="" in=""></a>	155	3.3%	\$585,967	\$50,500
Other Causes	1,434	30.8%	\$23,214,920	\$20,155,451
Total	4,658	100.0%	\$62,979,787	\$46,686,687



### **Top Ten Legal Firms Used by Claimants**

Name	Number	%	Claim Amount Paid
Rome Arata Baxley Stella LLC	56	12.3%	\$4,667,635
Berman Sobin Gross Feldman Darby LLP	28	6.1%	\$5,221,954
The Moody Law Firm	27	5.9%	\$2,415,247
Myers Lafferty Law Offices PC	26	5.7%	\$2,930,025
The Crow Law Firm	21	4.6%	\$1,416,909
Dreesen Law Firm LLC	18	4.0%	\$2,373,135
Cahill Goetsch Perry PC	16	3.5%	\$932,577
Keller Goggin and Wilfred Warren	16	3.5%	\$2,259,044
Barish Rosenthal and Eddy Hiraldo	13	2.9 %	\$895,279
Coffey Kaye Myers Olley	13	2.9%	\$2,335,948
Other Legal Firms	221	48.6%	\$16,714,092
Total	455	100.0%	\$42,161,845

Payment details as of March 14, 2014



### **Top Ten Medical Firms Used by Claimants**

#### **Sorted by Amount**

#### **Sorted by Number of Payments**

	Amount	Number of		Number of	Amount
Name	Paid	Payments	Name	Payments	Paid
Universal Smartcomp	\$1,156,681	5,179	Universal Smartcomp	5,179	\$1,156,681
Crozer Taylor Springfield	\$494,441	24	Pro Physical Therapy	753	\$484,488
Pro Physical Therapy	\$484,488	753	Occupational Health Centers	731	\$101,787
Glendale Adventist Medical Center	\$339,953	12	Proactive Work Health Medical Center	727	\$135,979
MCMC LLC	\$323,379	303	Mercyworks Occupational Medicine	539	\$166,046
Yale New Haven Health	\$266,956	29	Stoneriver Pharmacy Solutions	527	\$82,247
Thomas Jefferson Universal Hospital	\$252,873	35	Techhealth	523	\$177,572
Johns Hopkins Hospital	\$246,883	117	Omega Medical Center DOHR	477	\$152,997
Christiana Care	\$240,837	110	Methodist Occupational Health	460	\$121,680
St. Mary Medical Center	\$227,050	21	U.S. HealthWorks Medical Group	455	\$79,575
Other Medical Firms	\$21,825,248	35,896	Other Medical Firms	32,108	\$23,199,737
Total	\$25,858,790	42,479	Total	42,479	\$25,858,790



### **Top Ten Amtrak Claims Agents (Employee Claims)**

Name	Location	Number	%	Amount Paid	Est. Remaining Liability
	Washington	359	7.7%	\$1,827,367	-
	Los Angeles	326	7.0%	\$2,521,959	\$2,017,500
	Los Angeles	272	5.8%	\$1,939,662	\$943,500
	New York	258	5.5%	\$15,000	_
	Boston	253	5.4%	\$2,587,912	\$1,665,812
	New York	227	4.9%	\$5,848,495	\$3,809,277
	Philadelphia	208	4.5%	\$25,000	\$72,500
	Jacksonville	184	4.0%	\$2,087,781	\$1,283,261
	Baltimore	178	3.8%	\$5,629,617	\$3,839,824
	New Orleans	168	3.6%	\$2,103,561	\$2,321,138
	Various Locations	2,225	47.8%	\$38,393,434	\$30,733,875
Total		4,658	100.0%	\$62,979,787	\$46,686,687



### **Top Ten Repetitive Claimants (sorted by Number)**

Name	Location	Number	Amount Paid	Est. Remaining Liability
	Chicago Locomotive Shop	6	\$136,200	\$500
	Los Angeles Offices	5	\$12,650	_
	New Orleans Station	5	\$9,750	-
	REA Bldg	5	-	\$5,000
	Chicago Locomotive Shop	5	\$1,275	-
	Conn Dot Commuter	5	\$5,174	_
	Jacksonville Station	5	\$10,500	_
	C&S HQ	5	-	\$250,000
	Penn Station	4	-	-
	30th Street Station, Wilmington Shops	4	\$12,000	\$100,000
Employees with more than 1 claim	Various Locations	1,333	\$12,096,628	\$11,486,286
Employees with 1 claim only	Various Locations	3,276	\$50,695,610	\$34,844,901
Total		4,658	\$62,979,787	\$46,686,687



### **Top Ten Repetitive Claimants (sorted by Amount Paid)**

Name	Location	Number	Amount Paid	Est. Remaining Liability
	Elk M/W Base, Perryville M/W Base	2	\$400,000	
	Ivy City Maintenance Facility	2	\$375,000	-
	NW Base	2	\$352,500	-
	Chicago Locomotive Shop	2	\$350,000	-
	Penn Station	2	\$304,500	-
	Chicago Crewbase	2	\$300,000	-
	Ivy City Maintenance Facility	2	\$275,000	-
	Caltrain Main Office	2	\$275,000	-
	Los Angeles Offices	2	\$265,000	-
	30th Street Station	4	\$260,000	_
Employees with more than 1 claim	Various Locations	1,360	\$9,127,177	\$11,841,786
Employees with 1 claim only	Various Locations	3,276	\$50,695,610	\$34,844,901
Total		4,658	\$62,979,787	\$46,686,687

#### **Appendix C**

#### **ACRONYMS AND ABBREVIATIONS**

ACL Audit Command Language

Amtrak the company

Claims group Tort Claims and Litigation Group

FY Fiscal Year

OIG Office of Inspector General

#### Amtrak Office of Inspector General

### Governance: Injury Claims Trend Data for Fiscal Years 2010 through 2013 Management Advisory Report No. OIG-MAR-2014-008, July 17, 2014

#### **Appendix D**

#### **OIG TEAM MEMBERS**

Ed Stulginsky Deputy Assistant Inspector General, Audits

Vipul Doshi Senior Director, Audits

Vijay Chheda Senior Director, Audits

Mark A. Little Senior Director, Audits

Ben Davani Senior Auditor, IT

Kim Tolliver Consultant

Juan Morales Consultant

#### **OIG MISSION AND CONTACT INFORMATION**

#### **Amtrak OIG's Mission**

The Amtrak OIG's mission is to provide independent, objective oversight of Amtrak's programs and operations through audits, inspections, evaluations, and investigations focused on recommending improvements to Amtrak's economy, efficiency, and effectiveness; preventing and detecting fraud, waste, and abuse; and providing Congress, Amtrak management, and Amtrak's Board of Directors with timely information about problems and deficiencies relating to Amtrak's programs and operations.

### Obtaining Copies of OIG Reports and Testimony

Available at our website: www.amtrakoig.gov

#### To Report Fraud, Waste, and Abuse

Report suspicious or illegal activities to the OIG Hotline (you can remain anonymous):

Web: www.amtrakoig.gov/hotline

Phone: 800-468-5469

#### **Contact Information**

David R. Warren

Assistant Inspector General, Audits

Mail: Amtrak OIG

10 G Street NE, 3W-300 Washington D.C., 20002

Phone: 202-906-4600

Email: david.warren@amtrakoig.gov