

Citizens critic: Lawyers charging more, doing less

Updated: 5:13 p.m. Tuesday, March 25, 2014 | Posted: 12:19 p.m. Tuesday, March 25, 2014

BY CHARLES ELMORE - PALM BEACH POST STAFF WRITER

A 2012 contract with a West Palm Beach law firm was billed as helping state-run insurer Citizens better handle sinkhole lawsuits, but records show a third fewer cases were settled in 2013 and average monthly litigation costs more than doubled.

"It appears they are charging us more while doing less," said state Rep. Frank Artiles, R-Miami and a public adjuster. "The staff of Citizens, who oversees this contract, is culpable and responsible for not keeping a tighter rein on the scope of the contract."



Citizens officials said they have a responsibility to make sure homeowners receive valid repairs but not to pay unwarranted claims as they seek long-term savings, not a quick cut in costs.

"Citizens did not hire a coordinating counsel to reduce legal expenses in the short term but to manage litigation so that repairs are completed to protect policyholders and the communities in which they live," Citizens spokesman Michael Peltier said. "This will have the added benefit of reducing costs over the long term by resolving valid claims quickly and ensuring that recommended repairs are made."

The records add more fuel to a debate about a \$6.5 million contract signed in January to have Ackerman,

Link & Sartory of West Palm Beach oversee all of the company's 13,000 claims lawsuits, not just sinkholes. Taken together, the two contracts position the law firm to collect more than \$8 million without necessarily stepping into a courtroom, while directing strategy for lawyers the company already pays.

- Gov. Scott appoints Keys banker to consumer seat vacant 9 months on Citizens insurance board
- Citizens audit clears \$525 per hour lawyer deal despite 'subjective' fee standards, critics not assuaged
- Surplus-lines insurers slip into Citizens clearinghouse under new bill
- Citizens pays West Palm Beach firm \$6.5 million to bring down costs, hears they may rise in short run

Artiles, an outspoken critic of the contracts who requested the spending records, has contended the "coordinating counsel" arrangement wasn't needed in the first place and amounts to an "inside job" because of the law firm's ties to state officials. He has estimated the company could save \$50 million in legal costs just by paying claims homeowners make.

In a move the company says has not been previously announced, it is offering settlements in 1,300 sinkhole lawsuits to provide repairs for homeowners and pay plaintiff attorneys up to \$10,000 per case.

That's a broad offer of terms like those announced this month for one group of 300 homeowners whose lawyers would get \$2 million. Citizens says it could save \$30 million compared to fighting the cases in court. It's not a done deal: The homeowners still have to agree, and they have 60 days to decide.

- Insurance tips and resources

"We think this a fair, good-faith offer that will benefit policyholders by assuring repairs are made at no expense to them," said Jay Adams, Citizens vice president of claims.

A public records request by Artiles found Citizens settled fewer sinkhole cases in 2013 and spent more on legal costs.

The company settled and closed 253 sinkhole cases in 2013, down from 371 in 2012 and 488 in 2011, records showed. Meanwhile, average monthly spending on attorney fees and litigation costs in sinkhole cases more than doubled to \$2.1 million in 2013 compared to \$944,000 a year earlier.

Spending on legal costs, expert witnesses and geotechnical and engineering expenses rose to \$27.3 million in a roughly year and a half period ending in January during which the law firm served as sinkhole coordinating counsel, records showed. That was more than the \$22.5 million spent for those services in a three-year period before that.

The Palm Beach Post reported attorney Scott Link's fees of \$525 per hour exceeded by at least \$165 all others among 18 firms vying for the two contracts. His firm claimed no previous expertise in property insurance but emphasized experience with complex civil litigation involving financial companies and others.

Link's projected billing of more than \$1 million a year is triple the pay of Citizens CEO Barry Gilway, who

oversees Florida's largest property insurer with nearly 1 million customers. Link's firm is authorized to receive up to \$6.5 million over four years under the contract.

On applications asking for disclosures of potential conflicts, the firm did not mention ties to former Citizens President Tom Grady, an ally and neighbor of Gov. Rick Scott, and Florida Chief Financial Officer Jeff Atwater. Scott and Atwater appoint Citizens board members and oversee the company's management.

The West Palm Beach law firm paid Grady — who was interim Citizens president when the first contract was bid in an “expedited” or hurried-up process — as an “of counsel” attorney as recently as 2010. Partner Wendy Sartory Link listed Grady and Atwater as references on a 2011 application for a state post.

Settlements fall, costs rise

West Palm Beach's Ackerman Link & Sartory was named coordinating counsel for sinkhole cases at state-run insurer Citizens in 2012. In January it signed a \$6.5 million contract to coordinate all claims lawsuits for up to four years.

Citizens sinkhole lawsuits settled

2011 488

2012 371

2013 253

Average monthly legal costs for sinkhole litigation

2012 \$944,345

2013 \$2.1 million

Source: Public records requested from Citizens Property Insurance Corp. by state Rep. Frank Artiles, R-Miami