



# Combating Fraudulent Claims:

Understanding the Impact and  
Implementing Solutions

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# Combating Fraudulent Claims: Understanding the Impact and Implementing Solutions

Fraudulent claims, also known as ghost claims, are becoming a significant concern as insurers are looking at a rising number of suspicious incidents. These false claims encompass a wide range of deceitful activities, from staged automobile accidents to fabricated accidents on construction sites and unnecessary medical surgeries. Various professionals, including lawyers and doctors, are allegedly involved in these schemes that are becoming increasingly more common. In response, insurance companies are taking legal action to combat the problem.

## The Impact of Fraudulent Claims on Businesses and Employees

From higher insurance premiums to financial strain and a tarnished reputation, companies must address workplace safety concerns to mitigate these effects. An increase in claims can affect different areas of business in a multitude of ways.

**Higher Premiums:** When a company experiences a higher number of claims, its workers' compensation insurance premiums may rise. Insurers assess risk based on claims history, and frequent claims signal workplace safety concerns. For companies with an annual payroll exceeding \$800,000 and an Experience Modification Rating (EMR) greater than 1.20, a comprehensive safety and loss prevention consultation and evaluation are mandatory. The EMR is calculated by comparing an employer's actual incurred losses (claims) against the expected losses for businesses of similar size and in a similar industry.

### Rising Rates in New York

In 2010, a \$100 million project in the state of New York was looking at about 4% of the cost of that project going toward workers' compensation, general liability, and excess insurance. Fast forward to 2020, that number jumped to about 8.5%. In 2024/2023, that number has gone up to 12.5%. Looking ahead to 2025, that number is expected to go to 13% or 14% on a \$100 million project. New York's rates are significantly higher compared to those in surrounding states—such as Connecticut, New Jersey, and Pennsylvania, which hover around 2.5%.

**Financial Strain:** Smaller businesses are particularly affected by increased workers' compensation claims, as they lack the financial cushion of larger companies. The surge in claims can strain budgets and affect cash flow, making it challenging for these businesses to allocate resources to other essential areas of operation.

**Productivity and Payroll:** While workers' compensation benefits cover some lost wages, employers may still owe additional wages not covered by insurance. This can create a financial burden for businesses, especially if the injured employee is unable to return to work for an extended period.

**Safety Record and Reputation:** Frequent claims can significantly diminish a company's safety record, potentially affecting its ability to bid for projects or attract new employees. Clients and potential partners often consider a company's safety record when making decisions, and a large number of claims may raise concerns about the organization's commitment to workplace safety. Additionally, a tarnished reputation can make it challenging to recruit and retain talented employees who prioritize a safe working environment.

**Summary:** The impact of increased claims on businesses and employees is far-reaching. From higher insurance premiums and financial strain to productivity and payroll implications, companies must prioritize workplace safety to mitigate these effects. By implementing comprehensive safety measures, businesses can reduce the number of claims, protect their reputation, and create a safer and more productive work environment for their employees.

## Mitigation Options

There are several services and solutions available in the industry to help businesses mitigate the occurrence of fraudulent claims. These options start with pre-loss prevention and extend to post-loss mitigation.

### Pre-Loss Prevention

**Access Control Technology/Systems:** Implementing an access control system can help control who enters and exits a facility, keeping a log of employees who have checked into the job site. This can help stop non-employees from gaining access to the site or fabricating an on-site presence and claiming injury, as well as confirm the presence of employees on the site where they claim to have been injured.

**Risk Management:** Developing a comprehensive safety plan, known as a site safety plan (SSP), is crucial in controlling construction risk. An SSP should cover project safety, worker safety, public safety, and equipment placement, ensuring the site meets or exceeds safety standards. Safety professionals should design the plan and visit the site to verify its implementation, working with site staff to minimize hazards and meet regulatory safety program requirements.

**Safety/Loss Control Consultants:** Hiring a safety professional can help prevent common workplace risks and incidents, ensuring workers follow correct procedures. Safety consultants have knowledge of current regulations, laws, and violations; can perform OSHA inspections; and provide recommendations to correct potential issues. They also serve as a qualified resource for continual training, improving work processes, reducing the probability of costly claims, and enhancing overall safety.



## Why hire a safety/loss control consultant?

- ✓ Knowledge of current regulations, laws, and violations
- ✓ Ability to perform OSHA inspections and give recommendations to correct potential issues
- ✓ Utilization of on-site staff specifically trained and certified for safety work
- ✓ Identification of areas of risk to better allocate safety resources
- ✓ Document-required safety inspections
- ✓ Qualified resource for continual training
- ✓ Improved quality of work processes
- ✓ Reduced probability of costly claims

**Embedded On-Site Investigator:** For large construction projects, an embedded investigator can work alongside on-site safety personnel to provide an extra layer of insurance against misbehavior. This investigator can respond immediately to incidents on the job site, securing and preserving evidence, recording witness statements, and potentially photographing the scene to avoid evidence tampering.



## Post-Loss Mitigation

In addition to the abovementioned pre-loss prevention measures, businesses should also consider post-loss mitigation strategies, including:

**Immediate Response Investigations:** Having a comprehensive investigative solution in place is critical in mitigating the extent of damage caused by claims and fighting against fraudulent claims. Immediate response investigations involve deploying investigators to the scene of an incident to secure and preserve evidence, record witness statements, and gather crucial information before stories change or legal counsel is involved.

**Incident Mitigation:** Mitigation strategies can be targeted and varied, and should be coordinated between your investigation partner and defense counsel, including surveillance when appropriate. Your investigator will also gather evidence and locate claimants or witnesses. This could include identifying litigation records, criminal history, driving record, business affiliations, prior medical treatment, social media presence, and more.

**Trial Preparation** (if necessary): In the event that a claim goes to trial, it is essential to be equipped with the necessary tools to effectively defend the case. This includes ensuring availability and communication with witnesses, insured individuals, experts, and independent medical exam doctors in a timely manner, as these can greatly impact the outcome of the case.

The number of lawsuits from fraud/ghost claims is increasing. However, there are effective steps that can be taken to mitigate the risk of such claims or address them after they've been filed. From implementing fraud detection measures through conducting thorough investigations to establishing strong internal controls, taking action is crucial in protecting your financial resources and reputation.

