

## ❖ Personal Injury 101: The Nuts and Bolts of Handling Accident Cases



➤ **MAKING THE PHONE RING--** You can't handle your first injury case until the phone rings.....

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- **ADOPT THE MINDSET...I AM AN INJURY ATTORNEY**
  - Perception is EVERYTHING!
    - ◆ Your dress, your office, your marketing materials, your confidence.....
  - From this moment forward, you ARE an injury attorney!
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- **MAKING THE PHONE RING-- Marketing 101**
  - Many, many, many methods.....
  - First, develop your "Elevator Speech"
    - ◆ NOT-- I am an attorney.
    - ◆ "I am an injury and malpractice lawyer representing injured people."
  - You Never Know Where Your Next Case is Going to Come From.....
  - Let Family/Friends Know You Exist & That You are Handling Injury Cases
    - ◆ Law school classmates, college, high school, former co-workers....
    - ◆ Your church, your social groups (ie bike club for me, the gym)
  - Get Your Business Cards in to as Many Hands as Possible
  - Get OUT of Your Office!
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- **PREP WORK UNTIL THE PHONE RINGS**
  - Work on your Marketing Materials and Intake Forms
    - ◆ Do you have a "unique selling proposition"?
    - ◆ Injury Pamphlet-- types of cases you handle, your contact information
  - Work on Your Website/Blog
    - ◆ Blogging is a tremendous marketing tool!
  - Visit the Courthouse and Watch Injury Trials
  - Subscribe to Relevant Trial Lawyer Listserv's
    - ◆ Listserv's are a tremendous resource!
    - ◆ Look for a listserv in your state
  - Network with Other Attorneys
    - ◆ You are on the hunt for a MENTOR
    - ◆ Bar Association & Trial Lawyer Associations
    - ◆ Social Networking
  - Network with Other Related Professionals
    - ◆ Chiropractors, Orthopedic Dr's, Police, Auto Repair Shops....
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➤ **INTAKE**-- Oh my God, the Phone is ringing!

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- **HOW You Answer the Phone is CRITICAL!**
  - Every call might be the BIG ONE!
  - First Impressions Count
  - There are LOTS of Injury Lawyers So You MUST Be the First to Respond
    - ◆ A live person needs to answer the phone
  - Choreograph how the phone is answered:
    - ◆ "Thank you for calling the Ziff Law Firm, how may I help you?"
    - ◆ NOT "Law Firm"
    - ◆
- **Intake is distinct from Case Evaluation**
  - Intake is Information *Gathering* So You are Capable of Making a GOOD Case Evaluation
    - ◆ More information is better than less information
    - ◆
- **Implement *Systems* for *Thorough* Information Gathering**
  - New Client Intake Form
  - Client Questionnaire
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- **Information You Must Gather for Every Injury Case:**
  - Client Contact Information
    - ◆ Get everything-- home and work addresses, phone numbers, E-mail addresses
  - Client Background Information
    - ◆ Date of Birth, Social Security #, Marital Status, Children
    - ◆ Even the BAD stuff:
      - Any criminal history? Any prior lawsuits? Any prior accidents? Any prior workers compensation claims? Any prior injuries or treatment for psychiatric history? Any drug or alcohol problems?
      - If you smell ANYTHING negative, keep digging! It is better to know now, than hear it for the first time on the cross-examination of your client.
      - Let the client know, that the defense WILL know ALL the bad stuff because of national databases.
  - Liability Information
    - ◆ Where/When/How/Why did the accident occur?
    - ◆ Was the other driver ticketed?
    - ◆ Any witnesses?
    - ◆ Did you have any conversation with the other driver/the police/the witnesses or overhear any conversations?
    - ◆ Any photos, etc, etc.

- Insurance Information
  - ◆ Any applicable insurance from your client's carrier (ie No-Fault, Un/Under Insured Coverage)
    - Get your client's policy and read it to see what coverage they have.
  - ◆ Defendant's Insurance Company
  - ◆ For each carrier you will need: Insured's Name, Policy #, Claim #, Amount of Coverage, etc.
  - ◆ Has your client given any recorded statements to ANY insurance company or investigator?
- Injury Information
  - ◆ ALL Injuries from Top of Head to Tips of Toes
  - ◆ ALL pre-existing medical conditions (especially any prior injuries to the body parts injured in this accident)
  - ◆ ALL treatment to date
- Education & Employment Information
  - ◆ Get a complete history from high school to date of all education and all jobs.
  - ◆ For employment on date of accident, get all details including: employer name/address, job title, hourly rate, hours per week, etc.
  - ◆
- **Get the Necessary Forms Signed:**
  - Retainer Agreement
  - Medical Authorizations
  - No-Fault or Insurance Claim Forms

➤ **CASE EVALUATION**-- Now what the heck do I do?

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- **This is THE Most Important Stage of Every Case!**
  - Accepting the Wrong Case Can KILL You!
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- **Four Options for Every Case:**
  - Decline the Case
  - Take the Case with Assistance
  - Take the Case Solo
  - Refer the Case
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- **Factors to Consider When Evaluating a Case**
  - Do I like my client?
  - How Big/Small are the Damages?
  - How Good/Bad is the Liability?
  - How Much/Little is the Insurance Coverage?
  - How Much Will You Have to Spend to Finance the Case?
  - How Long Will the Case Take?

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- **FINAL RULES: Do NOT Take Junk AND If In Doubt Do NOT Take the Case!**

➤ **PRE-LITIGATION**-- OK, the case is mine....

- **OPENING THE FILE**

- **MISSION CRITICAL: Calendar the Statute of Limitations!**

- ♦ Belt, suspenders, duct tape.....

- **Develop SYSTEMS For File Organization & Calendaring Important Dates**

- ♦ **Organization Basics**

- Correspondence, Facts, Medical, Disbursements, Pleadings

- ♦ **Paper vs Electronic?**

- This is a no-brainer-- THINK DIGITAL FOR EVERYTHING!
- Scan EVERYTHING to PDF format.

- ♦ **YOUR SINGLE BEST INVESTMENT-- A Practice Management Program**

- These programs are distinct from Case Management Programs or Trial Presentation Programs like Casemap, Summation, Sanction, etc.

- You need a program to manage your PRACTICE.

- Calendar ALL the important dates in ALL your cases.
- Keep track of contact information for everyone you work with.
- Accurately track billing and disbursements information.

- General Practice Programs-- TimeMatters, Amicus, Prolaw, RocketMatter

- Injury-Oriented Programs-- Needles, TrialWorks

- ♦ **YOU WILL ALSO NEED TO CONSIDER HOW YOU WILL MANAGE EACH CASE-- A Case Management Program**

- Case Management Programs-- CaseMap, Summation, Concordance-- all great but expensive

- THE PAUPER'S ALTERNATIVE TO A FULL BLOWN CASE MANAGEMENT PROGRAM

- Generic Outlining Software
  - I love NoteMap ([www.casesoft.com](http://www.casesoft.com)).
  - Circus Ponies Notebook for Mac.

- Permits you to attach documents and quickly retrieve them.

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- **WORKING THE CASE UP**
  - Perception is Key!
    - ◆ You MUST Let the Carrier Know EARLY that this is a BIG Case!
      - Why? Insurance "Reserves"
      - A High Reserve is your Best Friend and a Low Reserve is your Eternal Nemesis!
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    - ◆ You MUST Make the Adjuster's Job Easy!
    - ◆ You MUST Convey to the Adjuster You Know What You are Doing!
    - ◆
  - Gather the Liability & Damages Documentation ASAP and Get It to The Adjuster in a Professional Looking Format
    - ◆ In the beginning, give them what you've got.....
    - ◆ As you gather medical records over time, send them bound copies of Medical Records & Medical Chronology
    - ◆
- **HURRY UP AND WAIT**
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  - IN MOST CASES, YOU MUST WAIT UNTIL YOUR CLIENT'S MEDICAL CONDITION IS STABLE....
    - ◆ General Rule of Thumb-- One Year for Permanency Opinion
    - ◆
- **DEMAND PACKAGE**
  - 
  - THIS IS GAME TIME! CRITICAL TIME FOR YOUR BEST WORK!
  - 
  - Demand Package Must Address:
    - ◆ Liability
    - ◆ Injuries
    - ◆ Damages
    - ◆ Insurance Coverage
    - ◆ Any Liens
    - ◆
  - Consider Pictures, Videos, Diagrams-- ANYTHING that makes it look like you are prepared to try the case TODAY!
  - Calendar 30 days for a response and follow-up when appropriate.
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- **SO THE ADJUSTER IS CALLING YOU BACK!**
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  - **NEGOTIATION 101**
    - ◆ RELAX-- **EVERYTHING** IS A NEGOTIATION

- We all negotiate every day
- ◆ **START WITH THE END IN MIND**
  - You can't get to where you want to be if you don't know where you want to be!
  - You need to truly determine what is your bottom line.
- ◆ **DEVELOP RATIONAL "STEPS" TO THE NEGOTIATION**
  - Negotiation is a process of give and take.
  - You must determine what you are willing to give.
  - The process of negotiation is attempting to determine what your opponent is willing to give.
- ◆ **DO YOUR RESEARCH BEFORE YOU BEGIN THE NEGOTIATION**
  - More information is always better than less information.
  - For instance, if you're negotiating the value of a fractured arm, you need to research that value by running a verdict search, putting out a query on your state's trial lawyer's listserv or talking to other local injury attorneys.
  - You **MUST** know where you want to end up **BEFORE** you begin and you **MUST** have a rational basis for calculating your "line in the sand" number.
- ◆ **CREATIVELY CONSIDER THE NEGOTIATION AND RESEARCH CREATIVE SOLUTIONS.**
  - This is the hackneyed "thinking outside the box".
  - For instance, are you amenable to a structured settlement rather than a lump sum payment?
- ◆ **KNOW YOUR OPPONENT**
  - Attempt to learn their style and history.
- ◆ **LISTEN TO YOUR OPPONENT**
  - If you listen closely to what your opponent says you may actually learn something helpful to your position.
- ◆ **KEEP YOUR OPPONENT TALKING**
  - So long as they're talking and your listening, you are gaining information.
- ◆ **ENHANCE (CAREFULLY) THE PERCEPTION OF RISK**
  - This is very tricky, so be very careful or your bluff might be called.
  - Subtly send the message of what may occur if the negotiation cannot be successfully concluded.
- ◆ **AVOID GETTING BACKED INTO A CORNER**
  - Try to avoid absolute positions.
- ◆ **AVOID BACKING YOUR OPPONENT INTO A CORNER**
  - People who are backed into a corner often have no alternative but to fight.
- **OK, THE CASE DIDN'T SETTLE....**
  - It's **NOT** the end of the world....

- Don't lose heart, many cases don't settle until they are in suit
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➤ **PUTTING THE CASE IN SUIT**-- Damn, now I have to do it the hard way....

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• **WHEN TO FILE YOUR COMPLAINT**

- Competing Philosophies About WHEN to Put Your Case in Suit-- Earlier vs Later
  - ◆ Must know YOUR Jurisdiction
  - ◆ My preference is only to put in suit AFTER I have exhausted settlement efforts.
  - ◆

• **TO DO'S BEFORE YOU FILE YOUR COMPLAINT**

- **Think AHEAD about next steps in the case and anything that is going to take time to put together consider doing NOW!**
  - ◆ For example, if you do not have ALL the medical records for your client, do it now.
  - ◆ Get all necessary experts on board.
  - ◆ Interview all witnesses BEFORE the Complaint is filed.
- **Research the Defendant**
  - ◆ Current Address & More Personal Information
    - Accurint-- [www accurint.com](http://www accurint.com)
  - ◆ Defendant Legal Status-- Individual vs Partnership vs Corporate, etc.
    - Example: N.Y. Dept. of State Entity Database--  
[http://appsext8.dos.state.ny.us/corp\\_public/corpsearch.entity\\_search\\_entry](http://appsext8.dos.state.ny.us/corp_public/corpsearch.entity_search_entry)
  - ◆ Professional Licenses
  - ◆ DIG FOR DIRT
    - Prior lawsuits, convictions, bad acts....anything that might prove helpful to your case.
    - Westlaw, Lexis-- traditional research
    - Web Research-- Accurint, Google, etc.
    - Consider Social Media-- Facebook can be a treasure trove!
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• **DRAFTING THE COMPLAINT**

- **THINK Before You Draft**
  - ◆ What are the Facts & Causes of Action You Want to Include?
    - Read the **Pattern Jury Instructions (PJI)** for your jurisdiction!
      - PJI is the single best resource I have found
  - ◆ Imagine the Jury Actually Reading Your Complaint....
    - Write in plain English, NOT confusing Legalese.
    - I include: "ticketed for.... and convicted of.....", breathalyzer results,

"left the scene of the accident"

➤ Include anything bad that you want the jury to know

- **CRITICAL: Include ALL Parties and ALL Causes of Action**

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- **FILING AND SERVING YOUR COMPLAINT**

- **You MUST know your procedural rules COLD.**

- ♦ RTFS! Read the Flipping Statute!
- ♦ What stops the clock? Filing? Service? How many days do you have for service after filing?

- **Do not rest until the clock is stopped!**

- ♦ Must calendar ALL dates-- service deadlines, deadlines for filing affidavits of service, deadlines to receive an Answer.

♦

- **RECEIVING DEFENDANT'S ANSWER**

- **READ the Answer CAREFULLY!**

- ♦ Note every admission, denial and defense.
- ♦ Go through it side-by-side with your Complaint.

- **THINK! Is there ANYTHING in this Answer that I can knock out NOW?**

- ♦ Examples: Claim not timely commenced, Claimed defects in service or personal jurisdiction defense, Seatbelt defense, etc.

- If Defense is Nonsense, write requesting that it be withdrawn IN WRITING or make a motion to have it dismissed.

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- **RECEIVING DEFENDANT'S DISCOVERY DEMANDS**

- In NY, you have 30 days to respond but rarely is that time period complied with....

- IF you have thought ahead at the time you filed your Complaint, you should be able to timely respond and a timely response sends the right message to your adversary and the carrier-- I am ready to go!

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- **DRAFTING YOUR DISCOVERY DEMANDS**

- **This is a CRITICAL stage: Do NOT Rely on Boilerplate Demands**

- ♦ Boilerplate demands are a good starting point but you must THINK about ANYTHING that your adversary may have that would be useful to your case.

- ♦ Examples:

- Cell Phone Records-- when you suspect cell phone use at the time of the collision.

- Event Data Recorder-- the "black box" containing vehicle data.

- Truck Driver Log Books

- **Typical Discovery Demands**

- ♦ Demands for Production of Documents



- ◆ Witness Information
- ◆ Defense Expert Witnesses
- ◆ Insurance Information
- ◆ Deposition Notices
- **Carefully Calendar the Date Defendant Must Respond to Your Demands**
  - ◆ Defendants often fail to respond or send incomplete responses-- it is YOUR JOB to make sure you received EVERYTHING you demanded.
  - ◆
- **DEPOSITIONS**
  - **THE SINGLE MOST IMPORTANT STAGE IN YOUR CASE!**
    - ◆ A good deposition can make or break your case.....
  - **Preparing Your Client**
    - ◆ **You MUST take the time to do this correctly!**
      - Do NOT prepare your client the day of the deposition.
      - Ideally, prepare several days in advance.
    - ◆ **You should create an outline of preparation topics for ALL witnesses:**
      - Proper dress, demeanor, documents reviewed, responding to objections, avoiding absolutes (ie I "never" had back pain before), etc.
    - ◆ **You also need to outline all the topics that are case specific:**
      - **ACCIDENT**-- Date of accident, vehicles, speeds, distances, conversations with defendant, conversations with police or rescue workers, etc.
      - **PERSONAL**-- Date of birth, marital status, kids, prior lawsuits, ever convicted of a crime, alcohol or drug problem, etc.
      - **EDUCATION**-- high school, college, any certifications, any academic difficulties, etc.
      - **EMPLOYMENT**-- all jobs ever, job duties, pay, ever injured on the job, prior workers compensation claims, ever fired, etc.
      - **MEDICAL**-- pre-existing medical, family medical history, family Dr, etc.
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  - **Your Preparation for the Deposition of Defense Witnesses**
    - ◆ Review Your Complaint and each cause of action to determine every element you must establish to sustain your burden and then ask yourself how the Defendant could help you establish that element.
    - ◆ Make an outline of ALL areas of questioning:
      - Personal-- age, education, employment, criminal convictions
      - Liability-- any mechanical problems with vehicle, where had you been, where were you going, speed of vehicles, distances, any admissions at the scene, any conversations with plaintiff or police,



- **PUTTING THE CASE ON THE TRIAL CALENDAR**

- In NY, you must certify the readiness of the case for trial and file a Trial Note of Issue.
- Generally, a trial will be scheduled within 6 months to a year. Your mileage may vary.... :-)

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➤ **TRIAL**-- Time for the high wire act!

- **PRE-TRIAL PREPARATION**

- **UPON RECEIPT OF TRIAL DATE**
  - ♦ **CONSIDER INVITING AN EXPERIENCED TRIAL ATTORNEY TO SIT SECOND CHAIR**
    - Contact the attorney *early* and arrange a meeting to discuss your trial.
    - Be upfront about your concerns and inexperience.
    - Offer to "swap" assistance-- you will do grunt work on one of their cases in exchange for assistance on your trial.
  - ♦ **ASCERTAIN AVAILABILITY OF ALL ESSENTIAL WITNESSES IMMEDIATELY--** If not available, request adjournment
  - ♦ Schedule Treating Dr's to see client for update exam
  - ♦ **UPDATE EXPERT RESPONSES IF NECESSARY**
  - ♦ **SUBPOENA ALL NECESSARY RECORDS** (ie Medical, Employment, No-Fault, etc.)
    - MEDICAL RECORD SUBPOENAS-- CPLR 3122-A
      - FOR MED RECORDS, SUBPOENA MUST BE ACCOMPANIED BY A **HIPPA AUTHORIZATION** SIGNED BY THE PLAINTIFF
      - FOR MED RECORDS, ALSO SERVE THE SUBPOENA WITH A CERTIFICATION TO BE SIGNED BY THE DOCTOR (NOT NURSE!) THAT PERMITS THE RECORDS TO BE INTRODUCED WITHOUT A WITNESS SO LONG AS YOU GIVE **30 DAYS NOTICE TO DEFENDANT** OF YOUR INTENTION TO OFFER THESE RECORDS. CPLR 3122-A
        - You simply subpoena the records with a HIPAA authorization attached, and attach a pre-prepared Certification for the DOCTOR (not NURSE) to sign. You then serve notice on the other side of your intention to use the records at least 30 days prior to trial. Then the records are deemed authenticated and may be entered into evidence like hospital records are under CPLR 4518(c).
    - HOSPITAL RECORD SUBPOENAS-- CPLR 4518(C)
      - SUBPOENA MUST BE ACCOMPANIED BY A **HIPPA AUTHORIZATION** SIGNED BY THE PLAINTIFF
      - ALSO SERVE WITH A **CERTIFICATION** TO BE SIGNED BY A HOSPITAL REPRESENTATIVE
      - GENERALLY MUST GIVE 3 DAYS TO PRODUCE THE RECORDS BUT MAY BE WAIVED. If they won't waive, can get "so ordered" subpoena from the trial judge.
    - RADIOLOGY FILMS (XRAY'S, MRIS, CT'S) SUBPOENAS-- CPLR 4532a
      - FOR MRI FILMS TO BE ADMITTED WITHOUT HAVING TO CALL THE RADIOLOGIST, SERVE NOTICE OF INTENTION TO INTRODUCE MRI FILMS ON D **TEN DAYS PRIOR TO**

**TRIAL** PURSUANT TO CPLR 4532a (PI--MRI ADMISSION AND RADIOLOGIST AFFIRMATION). Make sure all of the necessary elements regarding authentication of the films as required by 4532a are in the radiologist's affirmation!!

- ◆ **PREPARE TRIAL BRIEF INCLUDING:**
  - PROPOSED JURY INSTRUCTIONS
  - ASSESSMENT OF LIABILITY AND DAMAGES WITH RELEVANT LAW
  - ANY ANTICIPATED EVIDENTIARY ISSUES
  - ANY NECESSARY MOTIONS IN LIMINE-- ie keep out photos of minimal property damage, remote criminal convictions, anything that hurts us and helps the defense.
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- **GENERAL TRIAL CHECK LIST**

- ♦ **TRIAL NOTEBOOK TASKS**

- PREPARE PROPOSED JURY INSTRUCTIONS
- PREPARE STANDARD OF PROOF AND PROOF CHECKLIST
  - Check Proof of Facts on Westlaw or in Supreme Court Library
  - Outline what is needed to prove prima facie case for both liability and damages and summarize the proof we have on each necessary element
- PREPARE WITNESS/SUBPOENA LIST
  - All witnesses subpoenaed?
  - All records subpoenaed?
    - Medical records
    - Xrays, MRI's, etc-- either get radiologist's certification of films OR subpoena the radiologist
    - Employment records
    - No-fault file
- COMPILE PHONE LIST:
  - COURT (judge, law secretary, index no.);
  - CLIENT(s) (D/A, DOB); DEFENDANT(s);
  - DEFENDANTS COUNSEL; MEDICAL PROVIDERS (Pt. Nos., Account Nos., Dates of Treatment);
  - EMPLOYERS;
  - INSURANCE (Claim No., Adjuster)
  - EXPERTS (incl. liability, medical, economic).
- PREPARE EXHIBIT LIST
  - Consider demonstrative evidence exhibits you will want to use (anatomical models, medical illustrations, etc) and get any necessary exhibits enlarged and mounted.
- PREPARE MARKED PLEADINGS FOR US AND COURT
  - Compare answer w/complaint -in margin, mark A (admitted); D (denied); DKI (deny knowledge & info. sufficient...); D exc A (deny except admitting..); A exc D (admit except deny)-w/as few words as possible
  - Put pleadings in reverse chronological order (newest on the top), start labeling at the top right corner #1, #2, #3, etc of every pleading from Complaint to last pleading
  - MAKE PLEADING LIST WITH #'s and description of the pleading and date sent or received
  - Consider offensive use of D's pleadings against them (ie they assert no seatbelt when there's no proof plaintiff wasn't wearing seatbelt, they deny something that clearly should have been admitted). Enlarge pleading if you think you might use it at trial.
- PREPARE WITNESS LIST WITH ALL CONTACT INFORMATION

## FOR EACH WITNESS

- PREPARE DIRECT AND CROSS EXAMINATIONS OF ALL WITNESSES
- PREPARE TRIAL SCHEDULE with planned "batting order" of witnesses
- PREPARE YOUR VOIR DIRE QUESTIONS

### ◆ **PLEADING TASKS**

- All discovery demands supplemented?
- Have we received responses to our discovery demands?
- Have we responded to expert witness demands? Do they need to be supplemented?
- Consider Notices to Admit
- Consider possible Stipulations with defense counsel
- Should we discontinue against any parties?

### ◆ **MEDICAL/DAMAGES TASKS**

- Experts retained & scheduled?
  - Make sure we have expert's Curriculum Vitae and that we have provided it to the defense. Also, make sure we have exchanged any necessary expert reports (fed).
- Medical chronology updated and reviewed for accuracy? Provide updated copy to defense. If any new treatment or records, provide the defense with an authorization.
- Assemble a bound volume of ALL medical records (you may want a bound volume of Pre-existing medical records too)
  - Consider asking defense counsel to stipulate to use of bound volume of records as a single exhibit without the need to subpoena or produce all the records from all the providers.
  - Provide copy of bound records to ALL necessary witnesses.
- Schedule client to be seen by treating Dr so they have an up to date examination of our client. Provide treating Dr with bound copy of ALL records.
  - Make sure to provide copy of the notes from this exam to the defense!!
- Schedule appointment for attorney to meet with treating Dr to prepare for trial testimony (preferably two weeks before trial).

- **TWO WEEKS BEFORE TRIAL**
  - ◆ PREPARE & SUBMIT TO COURT:
    - TRIAL BRIEF
    - REQUESTS TO CHARGE
    - EXHIBIT LIST
    - WITNESS LIST
  - ◆ MEET WITH DRS, EXPERTS, WITNESSES
- **ONE WEEK BEFORE TRIAL**
  - ◆ MAKE SURE TRIAL NOTEBOOK TASKS ARE ALL COMPLETE-- see tasks above.
  - ◆ CONTINUE TO THINK ABOUT YOUR VOIR DIRE QUESTIONS & YOUR OPENING
- **PREPARE YOUR TRIAL BAG(S)**
  - ◆ Consider this bag your "Office Away from My Office"
  - ◆ Load in to it EVERYTHING You May Possibly Need:
    - Basic Office Supplies-- stapler, tape, Post-It notes, pens, markers, paper, etc.
    - Legal Materials-- exhibit labels, your state's procedural and evidence rules
    - Personal Materials-- PowerBars, toothbrush, a picture of your loved ones...
    -
- **THE TRIAL ITSELF-- It's Show Time!**
  - **MOST IMPORTANT TIP OF THEM ALL...RELAX AND ENJOY!**
    - ◆ A good mindset is essential.....
    - ◆ You will NOT die if you lose your first trial.....
    - ◆ Be prepared to roll with it and adapt....
    - ◆ Get some sleep and eat well.
  - If possible, recruit someone to serve as a "go-fer" and as a second set of eyes and ears in the courtroom.
  - **BE YOURSELF!**
    - ◆ Jurors see through people who try to be someone they are not.
    - ◆ Don't be afraid to let folks know that you don't know everything.....
    - ◆ If you screw up or lose your way, just confess it and move on....
    - ◆



- **UPON SETTLEMENT OR VERDICT**
  - **MAKE SURE ALL LIENS HAVE BEEN IDENTIFIED AND SATISFIED**
    - ♦ DSS, MEDICAID, MEDICARE, WCB, NF APIP, HEALTHCARE SUBROGATION CLAIMS
    - ♦ NOTE: NOT ALL LIENS ARE VALID AND THE ATTORNEY MUST DETERMINE WHETHER THE LIENS ARE VALID OR NOT. For example, Medicaid only has a lien for expenses that are related to the MVA but they frequently try to assert a lien for all meds paid both before and after the MVA. Likewise, many health carrier liens are NOT valid.
    - ♦ ALSO NOTE: Most liens are negotiable so don't just pay the full lien. For example, liens are routinely compromised by at least one-third.
    - ♦ Bottom line: all liens must be closely scrutinized before negotiating any compromises.
  - **PREPARE CLOSING STATEMENT**
    - ♦ The Closing Statement sets forth the breakdown of all \$ received, disbursements on the case, attorney fee calculation, any liens, and net recovery to client.
    - ♦ Check to make sure we have ALL disbursements.
  - **PREPARE RELEASE**
    - ♦ Find out from adjuster/defense counsel the full names to be on the Release and whether they want the carrier named in the Release too (ie John Doe, Jane Doe and/or Progressive Insurance Co.)-- some carriers want to be on the Release and others don't care.
  - **SEND RELEASE AND STIPULATION TO DEFENSE ATTORNEY TO FILE** (it's their obligation to file under CPLR 2104 and CPLR Rule 3217)
  - **CALENDAR 30 DAYS FOR RECEIPT OF THE SETTLEMENT CHECK** (CPLR requires carriers to pay w/i 21 days of receipt of release).
  - **CHECK FOR REFERRING ATTY FOR POSSIBLE REFERRAL FEE**
  - **FINAL THANK YOU LETTER TO CLIENT**
    - ♦ ENCLOSE BROCHURE, CARDS
    - ♦

- **CLOSE FILE**

- Generally, you must maintain client's file for 6 years but many attorneys now scan whatever documents they feel they may need and then return the original file to the client. If you do this, make sure to have the client sign a Receipt for the file.