

WORKING UP THE CASE

2016 UT CAR WRECK CLE

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This paper is intended to provide tips and guidelines in working up your personal injury cases from intake through the demand package in order to maximize pre-suit settlement value. Even if the case is not settled and you end up in a lawsuit, you will at least have completed some of the necessary legwork in getting your case ready for trial. So either way, it makes sense to be thorough on the front end of your case.

INTAKE

Most people who end up in your office have never been through an accident or dealt with an insurance company. Some have no idea what to expect and many have unrealistic expectations. In any event, they are looking to you for guidance and help. Before meeting with a potential new client, I try to get them to send me as much information as possible so that I can review it before the meeting. This allows me to focus more on them while they are sitting in front of me rather than reading through documents. Having your paralegal or someone on your staff in the initial meeting gives him or her the opportunity to learn the case from the outset. Your paralegal will also get to know the person with whom they will be working. My paralegal usually takes better notes than I do and it gives me another set of eyes in evaluating the potential client and his/her case. Finally, it allows the client to get to know my paralegal and develop a level of trust with her. Although I try to work directly with the client after the initial meeting, I find that the client is more comfortable dealing with my paralegal when they've previously met in person.

At the initial meeting, we try to gather as much information as possible. This includes witness information, the police report, list of treating doctors, lost wage information, photographs, property damage estimates, insurance information and claim numbers, past

injuries, past claims, criminal history, health insurance info, etc. You cannot have too much information!

In the intake, I am also evaluating the potential new client and her case. Over time I've learned that declining a case about which I have reservation(s) is good practice. If you are hesitant about a client or case, this reservation will probably not improve over time. If you decline the case, it is good practice to follow up with a rejection letter.

CLIENT EXPECTATIONS

I always want to make sure that the client and I are on the same page. To that end, I have a very frank discussion at the outset about their expectations regarding VALUE and TIME. Most people want to know “how much is my case worth” and “how long will it take”. If you answer the first question in the initial meeting, good luck explaining that later on. Rather, make sure that they understand there is no way to value the case at such an early stage and that any attempt to do so would be irresponsible. I try to explain the reality of injury cases in Texas and give them examples such as “paid vs. incurred” and medical malpractice caps (even if it's not a medical malpractice case). I avoid getting on my political soapbox and simply point out the reality of personal injury cases in Texas. The point of this is to gauge their expectations and determine if I can meet those expectations. If I sense that I can never meet those expectations, I reject the case. We've all heard something like “my friend's cousin got rear ended in a parking lot, went to his chiropractor a few times, and his attorney got him \$100k!” That's great – feel free to go hire that lawyer. At best, these types of people will be unmanageable clients if their expectations remain unchecked. In my humble opinion, life's too short and money's not everything.

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2016 The Car Crash Seminar session

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