

**PRESENTED AT**

**2016 The Car Crash Seminar**

July 28-29, 2016

Austin, Texas

**Cost Effective Strategies  
For Small Auto Accident Cases**

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## Cost Effective Discovery Strategies for Small Auto Accident Cases

Efficiency and economy are key elements when working a small car wreck case for maximum client recovery and profit for your practice. It is more efficient to do most of the work on these cases at the front end. These cases are best prepared for trial, not settlement, from the beginning.

Keep It Simple. File the case as soon as you have determined the value of the damages. Consider filing in the Justice of the Peace court if the case meets the standard for that jurisdiction. Serve your written discovery with the complaint. Prepare simple written discovery, which gets the information you want and which will actually be answered. In small car wreck cases ideal written discovery is prepared to elicit answers by the defendant that will support a simple motion for summary judgment on liability, if necessary. An inexpensive and valuable resource for researching the backgrounds of the parties and witnesses is the online public records database at <http://publicdata.com/>. It provides you with criminal background checks as well as other public records that may impact your case.

### **Non-Stenographic Deposition Strategies**

Even if you are not initially certain you need to take the defendant's deposition, notice the deposition of the defendant at the same time the suit is filed so that you economize handling the file. The notice can be dated out 90 days with a clause that you will work with defense counsel to reschedule at a mutually agreeable time if necessary. Delaying the taking of depositions to the week or two before trial may result in unnecessary continuances and extra time and expense.

You or any member of your employed staff can run the video recording of the deposition. A Notary Public must swear in the witness prior to taking the testimony. If you or defense counsel want a transcript of the testimony, the digital video recording can be sent to a court reporter who can be paid by the party requesting the transcription. It is notable that the submission of an errata sheet to the witness is not required for non-stenographic depositions.

Should precedent be required to present to objecting opposing counsel, a common argument was debunked on May 14, 2012; the Texas Attorney General issued a written Opinion (GA-0928), stating, in summary:

Construing Rule of Civil Procedure 199.1 in harmony with Government Code sections 52.021 and 52.033, a party to litigation, the attorney of the party, or a full-time employee of a party or a party's attorney may record a deposition solely by non-stenographic means without violating Government Code section 52.021(f).

#### **Deposition by Written Questions**

When you need the testimony of doctors or other expensive expert witnesses who may hold opinions important to your case, you may consider cheaply obtaining this information in an admissible format by depositions on written questions (DWQs). The obvious drawback to this strategy is the usefulness of the testimony at trial may be diminished by the boring and bland method by which it is required to be read into the record.

A novel and yet untested approach is to conduct a non-stenographic video deposition on written questions. The same process applies here: The witness will be noticed and subpoena served with DWQ attached. At a time convenient to the witness, the taking of the

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First appeared as part of the conference materials for the  
2016 The Car Crash Seminar session  
"Cost Effective Case Strategies"