

COMMON ISSUES & FAQs

2017 UT CAR WRECK CLE

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This paper is intended to address common issues and frequently asked questions in working up your personal injury cases from intake through the demand package in order to maximize pre-suit settlement value. I've also included what I hope will be useful forms.

INTAKE – SHOULD I TAKE THE CASE

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.

At the initial meeting, I 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, a sample of which is attached.

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. If the person’s expectations of the case are unrealistic, his or her expectations of me will also be unrealistic. At best these people will be difficult clients and at worst a bad review or even a grievance or lawsuit.

Explain and outline the claims process including the fact that it will be a lengthy process. First, my office will not order the medicals until treatment is completed, which is 100% up to the medical professionals. Even when this is done it is at least a matter of months before we are in a position to settle. Explain that the goal is to get the insurance company to their very best offer and that only then can an informed decision be made on whether to take the offer or file suit. I let them know that if suit is filed, it could very well take over a year and possibly multiple years depending on the complexity of the case and/or injuries. I explain that I will do everything in my power to get the case resolved as efficiently and effectively as possible, but I never guarantee a result or a timeline. I also try to follow this meeting up with a letter outlining the process, a sample of which is included in this paper.

CLIENT PREPARATION

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