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Effectively Negotiating with the Insurance Adjuster: Demanding for Dollars

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Demanding for Dollars

Maximizing Settlement Value with Demand Letters and Analysis

Settling auto accident claims is an artful process. It must be tailored to fit your own personality and negotiating style. This paper discusses a basic approach to analyzing medical records and using them in the demand package to maximize the settlement value of car accident cases. There are exceptions to all of these topics and no two cases are exactly the same. However, I have found that the ideas herein hold true more times than not. Many of the points will seem like common sense, some you know but have forgotten, and others will be new. When taken as a whole. They create a framework to aid in negotiating claims to a fair and favorable settlement.

When I first began presenting papers on this topic, I included the following disclaimer: “For the purposes of this discussion, an assumption is made that we are dealing with a car wreck with average damages and injuries; nothing catastrophic or out of the mainstream.” I have come to realize that there is no such things as a run of the mill car wreck case and therefore there should be no such thing as a run of the mill demand. I searched my office for something ordinary, generic, or mainstream. There was not a file to be found. Each one had a glitch, a technicality, or some certain issue that kept it from being the model for this paper. Which is to say, using a generic analysis will shortchange your claim. However, using some basic pillars can help your analysis and help you reach the maximum settlement value for the claim. Every file is different and every client will be too.

Know Your File. Before you begin a deep dive into the medical records, you need to have a solid understanding of your file. Whether you are working up a file in anticipation of litigation or in hopes of settlement, you have to know the case. Knowing the name of your client, the facts surrounding the wreck and the injures listed in the narrative are not enough. The adjuster has the surface knowledge, you need more.

Knowing what Adjuster wants to know: Adjusters are told to be friendly and gain the claimant's trust immediately. If the claimant has retained an attorney, they make contact with that attorney as quickly as possible. The adjuster wants to drive and control the negotiations process before you even get to the settlement stage. One way they do this is through the recorded or in person statement. They will size up your client and their injuries and you do not want to be surprised. They want to know about property damage and medical bills but they also want to know about your client.

Knowing Your Client. Talk to your client and get the whole picture.

What might the adjuster know that you are not yet privy to? Adjusters have access to information such as claims, criminal and in some cases medical history. Asking your client about these areas will prevent you from having to play defense when the adjuster raises an issue that negatively affects your claim.

Things to ask:

Do you have prior claims? Is so, how many?

Not just auto claims, also Disability and Comp?

Did you have any of these injuries before the accident?

Have you ever injured these areas of your body before?

Do you have a criminal record?

Have to already spoken to the adjuster?

Did you tell the adjuster you were injured?

Knowing your file means knowing the facts surrounding the accident.

Ask the same questions listed above about the person who hit your client. The accident report is a good place to start. Were citations issued? Were there witnesses? What were the contributing factors? Were cell phones and or texting involved? What else can you learn about the defendant?

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"Medical Records"