

# Case Audit Settlement Evaluation, LLC & Dr. Frank Liberti

Present A 3 Hour CLE Approved Seminar

## Law and Ethics - In Bodily Injury Claims

### ETHICS; LEARNING OBJECTIVES

Every claim on which an adjuster works has the potential to raise ethical questions and concerns. At times while performing these roles, claim adjusters fail to uphold the ethical requirements imposed upon them, which can be considered a deviation from the standard of care in claim handling.

This program is accredited for 3.00 total ethics credits.  
Verified participation entitles attendee to 3.00 total ethics credits.

ATLANTA, Georgia (CNN) -- ***If you are injured in a minor car crash, chances are good that you will be in the fight of your life to get the insurance company to pay all the medical costs you incur -- even if the accident was no fault of your own.***

Also Published On CNN Website:

- State Farm, Allstate employ consultant's strategy. CNN research finds the theme of strategy is "deny, delay, defend"
- Former employee says Companies convince juries that claims are fraudulent
- Insurers deny treating claimants unfairly

CNN reported seeing several of Allstate's policy documents during a court hearing in Lexington, Kentucky. Playing off Allstate's signature slogan, one document recommends the insurer put boxing gloves on its "good hands" for those who insist on going to court.

There are regulatory actions, fines, investigations and accounting's of unfair claim settlement practice acts (UCSPA), violations of the ethics codes of the adjuster and deceptive trade practices going on in the insurance industry when bodily injury claims are involved.

It's not just Allstate. Today, all insurers use software's to determine bodily injury claim settlement valuation and there are 80 different versions. As if Colossus and UCSPA's weren't enough to contain costs, the insurers also created "Business Process Improvement" (BPI), by which insurers have made it even more difficult to understand and navigate a bodily injury claim without having specific knowledge of how their system works.

Even though a Superior Court has issued an order to the insurers to release their coveted secrets, they have ignored the order claiming their right to withhold their "intellectual property" and opted to pay a ten million dollar regulatory fine for civil disrespect.

There are 12 Unfair Claim Settlement Practice Acts (UCSPA's) all designed to dispute, deny, omit and lower settlement valuation on bodily injury claims and it continues as yet another Superior Court ruled that one unfair claims settlement practice act known as "Core Claim Process Redesign" ratchets down claim value by 2/3rd's and was ruled "***harmful to public interest***" by a Superior Court.

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In this presentation we will reveal effective methods to counter Colossus, UCSPA's, explain and suggest how to navigate BPI to prevent unfair, unrealistic settlements, eliminate varying opinions, establish preponderance and win the "Greater Weight" of the evidence challenges.

In our effort to help plaintiff's attorneys serve at "Best Practice" against insurers in BI claims this presentation will;

- Identify the 12 Unfair Claims Settlement Practices and ethics codes of the adjuster
- Reveal methods to counter USCPA's and violations of the ethics codes of the adjuster
- Present effective methods some plaintiff's attorneys are now engaging to prevent unfair settlements
- Show information on what can be done to counter IME disputes, denials and varying opinions

## CLE 3 HOUR PRESENTATION Agenda

8:30–9:00 a.m. Registration

9:00–9:15

### LAW AND ETHICS

- The Social Contract Or Principles of Political Right"
- The Key Difference Between Laws And Ethics
- **CODES OF ETHICS AND REGULATIONS IN PROFESSIONAL ORGANIZATIONS**
- **NATIONAL ETHICS CODES OF CONDUCT OF THE INSURANCE ADJUSTER**

9:15–9:30

### ADDRESSING ETHICAL ISSUES IN AUTO ACCIDENT CLAIMS THE CONCEPT OF THE RIGHT BEHAVIOR NATIONAL ASSOCIATION OF INSURANCE COMMISSION (NAIC)

#### 1) NAIC Unfair Trade Practices Model Act

- Misrepresentation
- false Information
- Defamation
- Boycott, Coercion, And Intimidation
- False Statements And Entries
- Unfair Discrimination
- Failure To Maintain Complaint Handling Procedures
- Misrepresentation In Insurance Application

#### 2) NAIC Unfair Claims Settlement Practices

- Policy Misrepresentation

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- Negotiate In Good Faith All Policy Coverages
- Claims Acknowledgement And Processing
- Require Insured To Sue For Larger Settlement
- Abuse Of Legal System
- Claim Denial Must Be Related To Facts Of The Claim

**9:30-10:00**

## **UNFAIR CLAIMS SETTLEMENT PRACTICES ACT**

Explanation of The National Association of Insurance Commissioners model for Unfair Claims

Settlement Practices Act ("UCSPA") to set forth standards for the investigation and disposition of claims under policies or certificates of insurance issued to residents of the states that adopt the model act.

### **The 12 Unfair Claims Settlement Practices**

1. 2nd Guess the Medical Expert
2. Skewering The Prognosis
3. Manipulating The Trauma Line
4. Benchmark Tuning Bias
5. Selective Exclusion
6. Dragging the Injury Severity Line
7. Denying Future Care
8. Denying Whole Person Impairment
9. Mitchell Decision Point
10. Comparative Negligence
11. Reduced Severity Non-Rate Action Plan
12. Core Claim Process Redesign

**10:00-10:30**

## **COMMON LITIGATION ETHICS OBSTACLES**

### **The 7 Litigation Obstacles**

1. Narrative Style Demand Omissions
2. Table Formatting Requirements
3. Impairment Rating Mandates
4. Triggering Factors vs S.O.A.P. Notes
5. Value Driver Decision Points
6. Insurer Settlement Formula
7. Mirroring of the Medical File

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10:30–10:45

## CODES OF ETHICS OF THE ADJUSTER

**Codes of ethics were designed to have a positive effect on people's judgment in bodily injury claims. This presentation looks at:**

1. The main problems of ethical behavior in medicine – medical core competence & opinions
2. The main problems of ethical behavior among insurance adjusters in bodily injury claim medical determination and decisions

One of the most argued factors of a bodily injury claim are representing the injuries by evidence-based data, establishing the veracity of complaints, establishing the preponderance and greater weight of the evidence to eliminate varying medical opinions.

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10:45-11:00

## ETHICS AMONG VARYING MEDICAL & PROFESSIONAL OPINIONS

1. Medicare
2. Social Security –Disability
3. Work Comp
4. Personal Bodily Injury

## ETHICS INVOLVING MEDICAL DETERMINATIONS & DECISIONS

1. Treating Physician
2. Independent Medical Examiner
3. Independent Medical Valuator
4. Insurance Adjuster
5. Colossus

11:00–11:30

## THE ETHICS IN THE VALUATION OF INJURY CLAIMS

The Ethical Problematic Areas That Remain:

1. Timely Acknowledgement Of Pertinent Communications
2. The Providing Of Inadequate Explanations For Claim Disputes And Denials
3. Offers Of Compromised Settlements
4. Unclear Rationale Used In Determining Low Settlement Valuation
5. Attempting To Settle A Claim For Less Than The Amount To Which A Reasonable Man Would Have Believed He Was Entitled

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11:30-12:00

## RE-NEGOTIATING THE OFFER WHEN ETHICS CODES HAVE BEEN VIOLATED FOR A FAIR, EQUITABLE AND REASONABLE OFFER

1. The Formula Insurers Use To Determine Settlement Valuation
2. Injury Claim Settlement Calculator
3. How To Retort Consideration That The Offer May Not Conform With The Respective State Insurance Codes And Insurance Regulations
4. Making An Effective Rebuttal Against Unfair Claims Settlement Practice Acts
5. Interrogatories To Surface the legal and factual basis for undervaluation of an injury claim

## THE MEANING OF THE GOLDEN RULE

## THE PRACTICAL RESULTS OF APPLYING THE "GOLDEN RULE" IN ETHICAL BEHAVIOR

12:00-12:30

Q&A

CLE CREDIT: 3.0 Hours