

Case Audit Settlement Evaluation, LLC & Dr. Frank Liberti

Present A 5 Hour CLE Approved Seminar

How To Prevent Unfair Injury Settlements

3 Hrs General: Effective Tools to Prevent Unfair Settlements, Eliminate Varying Opinions and Win the “Greater Weight” of the Evidence Challenges for Plaintiff’s Injury Attorneys.

2Hrs: Ethics In Bodily Injury.

**This program is accredited for 3 Hrs General and 2 Hrs Ethics
Verified participation entitles attendee to 5.00 total credits.**

The insurance companies first engaged Colossus, now there are 80 different versions with 67,880 procedural intelligence (PI) codes to determine the range of value for a BI Claim used by all insurers. Now they created “Business Processing Improvement”, more recently introduced, (BPI) a culture that contains additional cost containment measures to limit bodily injury settlements which is making it difficult for plaintiff’s attorneys to oppose, without specific knowledge of how the system works.

Even though a Superior Court has issued an order to the insurers to release their PI codes, they have ignored the order in lieu of paying a ten million dollar regulatory fine for civil disrespect. There are 12 Unfair Claim Settlement Practice Acts (UCSPA’s) all designed to dispute, deny and lower settlement valuation 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”.

While many plaintiff’s attorneys have systems in place for representing B.I. claims, unfortunately, the advent of B.PI. has changed the relevance and significance of demand components that many have been using for years and are no longer as effective since B.P.I. 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 present;

- Effective methods some plaintiff’s attorneys are now engaging to prevent unfair settlements. Data that can quickly be incorporated to aid in the prevention of undervaluation and more effectively counter insurance company UCSPA tactics, identify and counter violations of the ethics codes of the adjuster as well as what can be done to counter IME opinions.
- A method of assembling the 4 corners of the medical claim, as well as certain administrative, legal and economic aspects of the case by using the insurance companies own codes against them to counter Colossus and prevent unfair settlements.

Seminar Presentation Overview and Timed Syllabus

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- A checklist of the 48 items that should be incorporated in every demand to meet BPI requirements, counter Colossus and offer increased efficiency of demand formulation, improve response time and reduce staff and legal spend.

CLE 3 HOUR GENERAL PRESENTATION Agenda

8:30–9:00 a.m. Registration

9:00–9:20

How Personal Injury Claim Settlement Values Are Determined

- Core Claim Processing Redesign
- Business Processing Improvement
- The Procedural Intelligence Codes that determine settlement value
- What constitutes Value Drivers and injury Severity Points
- How Injury Severity Points convert into settlement dollars
- Insurance companies' settlement value rates and formulas
- Point to Dollar Translation Percentage Multiplier Formula

9:20–9:40

How to Prevent Unfair, Unrealistic, Lowball Settlements: What You Need to Know Now

- Superior Court order benefits plaintiffs
- What needs to be done to eliminate unfair claim practices
- Understanding Decision Points
- How missing Decision Points = missing settlement value
- Why 80% of the Decision Points are routinely missing in the demand
- Making sure the Decision Points are contained within the demand
- Addressing Prolonged Modifiers that de-value the case by 15%
- Traps for the unwary

9:40-10:00

Recognizing the Decision Points to Include in the Demand

- The 58 Decision Points that should be in every demand
- Medical, Administrative, Legal and Economic Decision Points
- The most commonly missing Decision Points
- 4 main Decision Point Categories that determine medical value
- Decision Point locator and checklist

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10:00–10:10

Break

10:10–10:20

Formulating the Demand Letter to Prevent Unfair, Unrealistic Lowball Claim Valuation

- How to formulate the Medical, Administrative, Legal and Economic Decision Points to include in today's demand letter
- The format to mirror the decision points so they interface with the insurance companies software's
- Using the correct Language, Format and Sequence to Interface With The Insurance Companies'settlement software's
- A technique to save 50-75% of the time it takes to formulate a demand
- Review of a winning demand that prevents lowball settlements

10:20–10:40

Winning the "Greater Weight" of the Evidence Challenges

- How to Eliminate Varying Opinions
- Court approved evidentiary burdens of proof to substantiate that "Soft Tissue" injuries meet "Serious Injury Thresholds"
- Establishing the preponderance of the evidence
- The Process of Medical Validation to win the Great Weight challenges
- The Quality Standards (QS) the courts use to determine whose opinion carries the "Greater Weight"

10:40-11:00

Understanding Injury Types

- The ten most common injury types and which are overlooked
- The significance of double digit diagnoses in today's claims
- What your medical expert may not know
- The 4 main factors that determine the medical value
- How to educate your medical expert to understand, incorporate and document the medical decision points that too often go overlooked
- A simple on-line form that your medical expert can now use to provide you the applicable medical decision points and codes in the correct format - not a request for a narrative
- The mistakes made with injury documentation
- A soft tissue injury recognized by AMA to have a high injury

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- settlement value that is commonly overlooked or misrepresented
- A relatively new diagnostic procedure approved by the AMA to substantiate high injury value in soft tissue cases
- A little known “minimal derangement fracture” that occurs 30% of the time, which is routinely overlooked and worth the full policy value. There is a special spot position x-ray required to see this injury that even radiologists aren’t aware of

11:00–11:10 Break

11:10–12:00

Making a Discovery Rebuttal

- Rebuttals are necessary when you suspect the presence of; “Tuning Bias”, unfair claims practices or ethics codes violations of the adjuster resulting in lowball settlements
- Process to get the insurance company to reveal the entire factual and legal basis for their low settlement determination
- Checklist of what to include in the rebuttal
- Review of the most effective rebuttal you can make against the insurance companies’ lowball settlements
- Understanding the ethics codes of the adjuster
- Citing Ethics Codes violations of an insurance adjuster in your rebuttal
- Recognizing unfair claims practices
- Countering Unfair Claims Practices in your rebuttal
- When it’s time for the insured to file a First Party claim against their insurance Company and what to base it on.
- How to avoid the need for rebuttal in the first place

12:00-1:00

LUNCH

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CLE 2 HOUR ETHICS PRESENTATION

Agenda

ETHICS; LEARNING OBJECTIVES: 2 Hours

1. Differentiate Between Laws And Ethics
2. Describe The Functions Of And Relationships Among Codes of Ethics and Regulations In Professional Organizations In Assessing Bodily Injury Claims
3. Identify National Ethics Codes Of Conduct Of The Insurance Adjuster
4. Unfair Trade Practices
5. Unfair Claim Settlement Practice Acts
6. Common Litigation Ethics Obstacles
7. Ethics Among Varying Medical & Professional Opinions
8. Ethics in Medical Determinations & Decisions
9. The Golden Rule Of Ethics
10. The Practical Results of Applying The "Golden Rule" in Ethical Behavior

1:00-1:15

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

1:15-1:30

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
2. Misrepresentation
3. False Information
4. Defamation

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5. Boycott, Coercion, And Intimidation
6. False Statements And Entries
7. Unfair Discrimination
8. Failure To Maintain Complaint Handling Procedures
9. Misrepresentation In Insurance Application
10. NAIC Unfair Claims Settlement Practices
 - Policy misrepresentation
 - 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

1:30-2:00

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

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2:00-2:30

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

2:30-2:45

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.

2:45-3:00

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

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4. Insurance Adjuster

5. Colossus

THE MEANING OF THE GOLDEN RULE

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

3:00-3:30

Q&A

CLE CREDIT: 5.0 Hours