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What The Movies Can Teach You About Defending Worker's Compensation And General Liability Claims

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I. "Always be closing"

Efficient, cost-effective handling of workers' compensation and general liability cases requires always assessing options for how to close the claim. You must implement that mindset from the time a claim is opened until you receive approved contracts. Whether Claimant is still treating, you are waiting for a demand or trying to push Claimant's attorney to trial, there are always tactics to apply more pressure to expedite the life of the case.

Some of the tactics include continuously motioning the case up, securing an IME to address endless treatment, requesting dismissals for failure to prosecute, regularly contacting Claimant's attorney and pre-trial conferences. It is not enough to start thinking about settlement and closure only when a demand is received.

II. "He pulls a knife, you pull a gun"

Preparedness is the key to success in handling and litigating workers' compensation and general liability claims, as it is with much of life.

Whether you are securing an IME report, preparing to meet Claimant's attorney for a settlement conference, negotiating over the phone or preparing for trial, plan on always having more information than your opponent. This quote illustrates that concept that you should always anticipate your opponent's positions, arguments and evidence and be prepared to rebut it as much as possible with your evidence.

III. "On this team, we fight for that inch"

Sports games often come down to a matter of inches and hinge on small details. Likewise, workers' compensation and general liability cases can turn on the smallest of facts, so it is crucial to analyze every fact and understand how it helps or hurts your position.

An example of this mindset is making sure IME physicians are provided complete records and films on which to rely so their opinions cannot be attacked as uninformed or incomplete. Another example is combing the medical records while negotiating a settlement to find and lean on facts supporting that Claimant's injury was not quite as severe as their attorney argues.

IV. "I want you to be nice until it's time not to be nice"

Maintaining professional, working relationships with Claimant's attorneys often provides the ability to resolve issues that might otherwise cause delay, further litigation and more costs.

However, it is critical to always keep your opponent at arm's length so you are taken seriously when you need to apply pressure and take a stand. The best results are obtained only when viewing your opponent as an adversary and not a friend.

V. "It's not personal Sonny, it's strictly business"

Handling workers' compensation and general liability claims requires entrenching yourself in the facts and having to deal with varying personalities. It is easy to become personally invested in the course and outcome of a claim, whether it is because you dislike the Claimant, their attorney or their doctor. However, injecting your personal beliefs, preconceptions and agendas almost always lead to making stubborn decisions motivated more by revenge or vindication than cost-effective handling.

In this business, the best vindication is settling and closing a claim for the lowest possible amount, period.

VI. "You want me to believe Omar was a stoolie because Sosa said so? You bought that line?"

Taking your opponent's word as true without checking yourself is risky business and not how a cost-effective claim is handled. Whether you are double checking TTD timelines, wages, the existence of witnesses or legal authority for a proposed position, do your homework and check for yourself.

Remember, Claimant's attorney should be aggressively advocating for his client. If you take his/her word on anything without checking, you are doing the same thing. In other words, when making decisions for a case, convince yourself and don't let someone do it for you.

VII. “Mama always said life was like a box of chocolates. You never know what you’re gonna get”

Whether you’re investigating a new claim, Claimant is attending a follow-up appointment or you are proceeding to trial, there are unexpected turn-of-events in many claims.

In order to act decisively, intelligently and efficiently, you must always prepare for the worst-case scenario and have a game plan in place to execute.

VIII. “6 nights at \$300 is \$1,800. You want days too? \$2,000? \$3,000. Done”

Negotiating is so essential to handling workers’ compensation and general liability claims that sharpening your negotiating skills will lead to lower claim costs and more favorable results. However, a skilled negotiator constantly assesses whether continued litigation, time and costs will outweigh the results from ongoing negotiations.

For example, maintaining a hardline settlement offer of \$20,000.00 when Claimant’s attorney is at \$21,000.00 makes a strong statement, but if it takes 6 months of litigation, negotiation, motions and trial appearances to settle, the hardline might not be the most cost-effective approach to closure.

IX. “The most valuable commodity I know of is information”

In workers’ compensation and general liability cases, conflicting information is presented to a trier of fact so they can render a decision and apply it to the law. As such, always make sure you have all of the information and present them in the most persuading manner, as tiny details often have monumental impacts.

Surveillance is a great example of this concept. Assume, in a workers’ compensation case, you have an accepted and compensable claim for which Petitioner has light duty restrictions Respondent can’t accommodate. You know you owe TTD, but mistakenly forgot to issue it for 2 months and Petitioner’s attorney hasn’t called about it. Instead of issuing TTD and moving on, you wonder how Petitioner is surviving without working or TTD and order surveillance. The surveillance shows Petitioner working well beyond his restrictions, not to mention earning income. You suspend benefits and stash the surveillance away until trial. At trial, Petitioner’s credibility will be successfully attacked and the surveillance can also be used to challenge the extent of the injury.

X. “Everything is awesome. Everything is cool when you’re part of a team”

Great teams are stronger than the sum of their parts. When the insured, TPA and defense counsel are all on the same page regarding strategy, actions are executed decisively and cost-effectively.

Additionally, when all members of the team are responsive, information is shared, strategies are developed and actions executed efficiently without wasting unnecessary time and defense costs for following up.

XI. “Do. Or do not. There is no try”

Acting swiftly and decisively leads to efficient handling of workers’ compensation and general liability claims because it communicates a strong message to your opposition that you believe in your position and will stick to your guns.

Handling claims in this way cuts out much of the back and forth and helps crystalize the issues in dispute sooner.

XII Questions