



2014 CLM Annual Conference

April 9, 2014 – April 11, 2014

**Boca Raton Resort
501 E. Camino Real
Boca Raton, FL 33432**

Roundtable 1: Thursday, April 10, 2014 (10:10 am – 11:10 am)

Pay What You Owe

Course Relevance:

The panel will discuss the issues which arise in the handling and resolving claims. In the successful resolution of a claim, one of the crucial points is timing of the resolution. A successful resolution depends upon the analysis of the risk, the costs incurred in analyzing the risk, and the probable outcome of the decisions that were made in the process. Paying the appropriate value of a claim is the ultimate test of a successful resolution. Anyone can over pay a claim simply to close a file. Understanding your client's needs, wants, requirements, and external factors not commonly known or considered will be discussed. Furthermore, appreciating and implementing different tactics and strategies to pay what you owe will be shared and discussed in an open and interactive manner. Paying a claim that satisfies the needs of the client is the goal and objective of every case that we handle every day.

What factors do we need:

The initial consideration is what type of claim we are handling. The laceration of a pinky toe has a different level of concern than a tractor trailer fatality. We handle all types of claims. But they all have one thing in common when it comes to the resolution. Each claim has a value. The key is identifying that value as early as possible. Finding that value will take the input and cooperation of the claimants, their attorneys, the investigators, the officials, the defense attorneys and the internal committees and excess carriers. All of these factors play a role in paying what you owe.

What information do we need:

There are several levels of information that is necessary to paying what you owe for a claim. There are circumstances where we want to share information. There are circumstances where we want to keep information from the claimant. Just as important, there is information that we are afraid of developing. It is important to determine the level of information and investigation needed to get the claim in a position to pay what you owe.

What level of cooperation is required:

In every claim, the dynamics involved as to the level of cooperation and collaboration is required. Can it be resolved by myself? Does this claim need an independent adjuster? Does this claim need defense counsel immediately? Does this claim involve the police and other regulatory agencies that will be involved. The level of cooperation and collaboration is important to the successful resolution.

Voluntarily or involuntarily, others are going to be involved. Navigating through the interested parties and entities requires advance thought and planning. Obtaining the proper level of cooperation that the claim requires, is another important factor to paying what you owe.

What tactics should be implement:

This is the area that experience counts the most. It is most important that you acknowledge the level of your own experience before you begin. A new claim's handler or attorney need to be receptive to advice from senior personal or senior counsel. Bullying by claimants and their counsel should be anticipated. While not always the case, not allowing the other side to overwhelm you is crucial. On the other hand, an experienced claims handler knows what "passes the smell test." Handling complicated fact patterns, uncooperative claimants and unreasonable expectations can be disarmed with the proper tactics and posturing. If the proper handling of the claimant and their counsel occurs, even the most difficult claim can be resolved by paying what you owe.

What type of presentation is required:

There are many different scenarios that require different presentations. There are tried and true presentations that accomplish the goal such as "good cop, bad cop"; "nickel and diming"; "take it or leave it." Everyone has their own style. However, the circumstances of each claim need to dictate the tactic that is used. Do you implement the "don't confuse me with the facts" approach, or do you develop a full blown power point presentation that hammers every point. Reading the claimant, the opposing representatives or attorneys is determinative to paying what you owe.

What pressures influence the resolution:

Everyone has pressures in resolving a claim. The claimant may need the money, or may not. The opposing counsel may have control over his client, or may not. The claims handler may have internal pressures such as reporting, reserves, excess carriers, file counts, defense costs. The defense counsel may have relationships with the mediator, judge, or not. The key to the successful resolution is making sure the pressures on you and your attorney do not overcome the ability to resolve the case for the correct value. Recognizing the pressures, both apparent and those lurking beneath the surface, will go a long way to paying what you owe.

Conclusion:

The fact of the matter is that the proper resolution is not what the mediators say in every mediation; "everyone is a little unhappy" The proper resolution should be a fair payment for the facts that were before you. An informed decision, based upon the facts of the claim, the costs to defend the claim, the possible exposure if things go south, and consensus of the people who are affected by the resolution, validates that you paid what you owed, and that is the definition of a successful claim resolution.