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**Playing Against a Stacked Deck: Using Poker Theory to Better Manage Workers'
Compensation Claims**

INTRODUCTION

The theory, practice and skills required to play high level hold 'em poker are often identical to the skills needed to effectively handle workers' compensation defense claims. Poker players must make decisions - - whether to raise, call or fold - - based upon imperfect information. Whether to settle or proceed to trial, accept or deny, which depositions to take and investigations to pursue, and the like, are all "bets" we are making on a claim; bets that must be placed based on limited information. The best strategies for both often involve probability, psychology, luck and budgetary acumen. A great claims handler, like a great poker player, is part mathematician, part psychologist and part private detective.

GAME THEORY

Game Theory Defined

Game theory is "the study of mathematical models of conflict and cooperation between intelligent rational decision-makers, and the science of logical decision making.

Exploiting Patterned Behavior

The behavior of human beings falls into predictable patterns. Patterns can be exploited.

The Bat and the Ball

A bat and a ball, together, cost \$1.10. The bat costs a dollar more than the ball.

How much does the bat cost?

CLUBS: CONTROLLING THE OPPOSITION

The OJ Case

F. Lee Bailey, Christopher Darden, and the glove-it didn't fit, so they had to acquit.

The Gambler's Fallacy

The gambler's fallacy, is the mistaken belief that, if something happens more frequently than normal during some period, it will happen less frequently in the future, or that, if something happens less frequently than normal during some period, it will happen more frequently in the future (presumably as a means of *balancing* nature).

- TTHTHHTHTHT.
- HHHHHHHHHH.

Escalation of Commitment

Escalation of commitment refers to a pattern of behavior in which an individual or group will continue to rationalize their decisions, actions, and investments when faced with increasingly negative outcomes rather than alter their course.

Irrational Reciprocity

People tend to reciprocate the acts of others even when it goes against their self-interests. This works even when there is no real concession made by the offer. Remember the Hari Krishna example.

What are some ways we can encourage reciprocation?

Reference Point Effects

People are more likely to agree to a concession framed against larger, overall deal than a smaller aspect of the deal.

SPADES: DIGGING FOR INFORMATION

"Tells" or Seeing into Your Opponent's Soul

A tell in poker is a change in a player's behavior or demeanor that gives clues to that player's assessment of their hand.

Top Five Poker Tells

1. Never call a shaky hand.
2. Never call a talker.
3. Never call the clicked tongue.
4. Always call the friendly bettor.
5. Be wary of the bettor who glances at his chips.

Top Four Negotiation Tells

1. "Not inclined" means "are inclined."
2. "Cannot...now" means "can...later."
3. "About as far as I can go" means "I can go farther."
4. "Do not have much room" means "have quite a bit of room."

How to Avoid Giving Away Information

1. Answer with your own question.
2. Referring the question.
3. Answer only the helpful part.
4. Challenge the relevance.
5. Control the agenda.

Question: What are ways you avoid giving away important information and answer to a direct question?

DIAMONDS: FINANCIAL CONSIDERATIONS

The Sunk Cost Fallacy

Sunk cost fallacy is the phenomenon where people justify increased investment of money, time, lives, etc. in a decision, based on the cumulative prior investment ("sunk costs"), despite new evidence suggesting that the cost, starting today, of continuing the decision outweighs the expected benefit.

What are ways we can avoid sunk costs?

Using Expected Value

The expected value of a discrete random variable is the probability-weighted average of all possible values.

A mediocre poker player will separate hands into good ones, bad ones, and in-between. A player falls upon that categorization as well as a "gut feeling." A skilled player will estimate the precise percentage chance of winning to the tenth of a percent, will use a fairly precise estimate of the eventual pot, and will develop an "expected value."

Mediocre claims handling involves categorizing claims as compensable, disputed, and, perhaps, nuisance value cases. A general value will often be assigned based upon the categorization.

Claims handlers have the opportunity to utilize an accurate estimate of the percentage chance of winning, an accurate estimate of the eventual payout, use a relatively simple mathematical model to estimate an expected value of the claim, and to use it as a "walk away" point in negotiation.

Example:

$$\begin{array}{r} (40\%) (\$50,000) (70\%) = \$14,000 \\ (30\%) (\$150,000) (70\%) = \$31,500 \\ (30\%) (\$300,000) (70\%) = \$63,000 \\ (40\%) (\$100,000) (70\%) = \$28,000 \\ (60\%) (\$0) (70\%) = \$0 \\ (70\%) (\$100,000) (70\%) = \$49,000 \\ (30\%) (\$0) (70\%) = + \$0 \\ \hline \$185,500 \end{array}$$

HEARTS: THE ART OF PERSUASION

The Conjunction Fallacy

The conjunction fallacy is a formal fallacy that occurs when it is assumed that specific conditions are more probable than a single general one.

Linda is 31 years old, single, outspoken, and very bright. She majored in philosophy. As a student, she was deeply concerned with issues of discrimination and social justice, and also participated in anti-nuclear demonstrations.

Which is more probable?

1. Linda is a bank teller.
2. Linda is a bank teller and is active in the feminist movement.

Telling a Story

Memory is visual, but communication is verbal. Effective persuasion involves a battle to picture via a story more so than simply piling up evidence.

What are some ways we can effectively tell our story?