

Insider Secrets to Increase Your Settlement Offers

Lawyers deserve to make more money. One of the most frequent problems a lawyer must solve is finding a way to increase the amount of money offered by an insurance adjuster to settle a claim. Evaluating the dollar amount of a case to receive a large settlement offer quickly and without litigation is both a science and an art.

Many lawyers spend years learning the operations of insurance companies and doctors. They spend countless hours developing the “correct demand letter,” or merely give up and use a cut and paste approach sending the same basic letter out over and over again hoping it will work.

Most people have no idea of the tremendous amount of pressure the typical lawyer is under. The average personal injury client believes their case is the most important case in the attorney’s possession. Additionally, the PI client expects their case to settle immediately and for huge dollars. The reality is that the client usually needs months of treatment until they reach maximum medical improvement (MMI). Then the attorney has to wait until the doctors that have treated the client provide a final report with a diagnosis and permanent impairment rating.

When an attorney receives the personal impairment rating and final reports, they will generally craft their personal injury demand letter based on the doctor’s reports and the amount of money their client’s insurance carrier has paid out in personal injury protection benefits. They will also add up their client’s out of pocket expenses such as deductibles, etc.

Once the above numbers are calculated, the attorney will begin to fine tune the dollar value of the case using a variety of methods. There are almost as many methodologies for determining the dollar value of a case as there are attorneys. This is a part of the art of the practice of law and the value can be influenced by a number of factors including intangible factors, such the reputation of the doctors that treated the patient, the reputation of the claimant’s lawyer and the perceived value that the insurance company will place on the claim. If the values perceived by the adjuster and the lawyer are too far apart then it will be virtually impossible to settle the claim without litigation. For example, assume ABC insurance carrier has a policy with a \$100,000 Bodily Injury (BI) limit. If an attorney demands the policy limit of \$100,000 but the insurance adjuster believes the claim is only worth \$10,000, then a \$90,000 gap has been created that will make the case difficult to settle.

One of the *best kept secrets* for closing this gap and resolving this problem is for the personal injury lawyer to use a legal nurse consultant. In fact it can be one of the best win/win synergistic combinations for all parties concerned. Insurance companies go through trends like all companies. For example, a few years ago a personal injury lawyer could virtually guarantee a higher settlement amount if their standard whiplash client also had a temporomandibular (TMJ) problem. However, many insurance companies now

view such claims with suspicion and routinely discount them by using an in house TMJ expert.

Insurance adjusters have a tendency to view “whiplash” doctors and the lawyers that represent such clients with skepticism. However, nurses have a long history of being the functioning backbone for the healing profession. Also, they are known for their caring and compassionate attitudes. This translates into a perception of honesty and integrity exceeding most all professions. My own personal experience with LNCs is that they do in fact maintain a high degree of objectivity which can be invaluable for providing the attorney with a neutral analysis to evaluate the claim. An LNC can also be extremely helpful in bringing a client down to reality when they have unrealistic expectations.

The second well kept secret of producing big settlement offers is to utilize the services of a professional personal injury demand letter writer. In today’s competitive marketplace, a lawyer should look for a writer possessing the ability to write a creative, persuasive letter that uses the LNC report as well as the final reports of the other experts and facts of the case.

The advantages of using an outside writer are numerous. For example most attorneys face constant interruptions making it virtually impossible to sit down and take the four to five hours required to write a top notch demand letter. There is a tendency for the demands of the day to stack-up on the lawyer’s to-do list. This results in clients calling and complaining about their case adding to the lawyer’s stress.

Generally, the lawyer will attempt to farm out some of the work to law clerks or paralegals, but this leads to inconsistent results. Most law clerks and paralegals simply do not have the preparation or background required to deal with the highly trained claims adjuster. Some attorneys have resorted to using claims adjusters to prepare the demand letters. However, this technique generally has not worked well because the adjuster ends up sounding like one claim adjuster writing to another claim adjuster. In the alternative, the adjuster will attempt to write a letter that sounds like an attorney but ends up with a product sounding pompous and overflowing with legalese.

The solution is to find an LNC with connections to a good “ghost-writer.” LNCs tend to be very good at networking with doctors, lawyers and legal writers. One thing for sure, is that NOW is the time to use the LNC-Professional PI demand letter writer combination. It is a trend that will be good for a few years. Don’t wait to increase your own practice, because once all the personal injury lawyers catch on, then it will be just another technique or trend that the insurance industry will counter by hiring their own in-house LNCs and professional writers.

Article provided by B. Everett Schnell, J.D. , who has experience as a claims adjuster and writer for an insurance defense law firm. He has spent the last three years working with LNCs, personal injury and medical malpractice lawyers. Sharon Scott is an independent certified legal nurse consultant who has been assisting attorneys nationwide since 1993.