

Working-up Moderate Damage Claims



Introduction

- File selection is an important issue
- Plaintiff's character is always an issue
- Make sure client and you understand pre-accident history

Accident Benefits

Occupational Therapist

- Gathers information about clients environment (s)
- Assess need for Rehabilitation, Housekeeping, Attendant Care, Caregiver and Non-Earner Benefits
- Job Demands Analysis

Accident Benefits

Occupational Therapist

- Do not allow the insurer to control process
- Plaintiff always has choice of healthcare provider!

Accident Benefits

Healthcare Referrals

- Ask O.T. help with referral
- Don't be afraid to make referral

Accident Benefits

Section 24

- Refer plaintiff for FAE or Vocational Assessment where appropriate

Accident Benefits

Housekeeping/Attendant Care

- Monk at ING or McMichael at Belair
- “Incurred” has a broad interpretation
- Help get Housekeeping, Attendant Care, or Caregiver Benefits
- Help build Tort claim

Choosing FSCO or Courts

FSCO

- Adjudicators with expertise
 - Med/Rehab
 - CAT
 - Complete Inability
- Quality decisions
 - Deference of courts
- Non-Jury
- Special Awards
- Process/Procedures
 - Fixed dates
 - Settlement opportunities
 - D.R.P.C.
 - Relaxed rules of evidence

Choosing FSCO or Courts

Court

- Collateral benefits problem
- Relying on statutes other than S.A.B.S.
- Jury is possible
- Punitive Damages
- Better costs

Tort

Liability

- Private Investigator should interview witness' ASAP!
- Unprotected Defendant's must be exposed

Tort

Damages

- Early Investigation of:
 - Lay witnesses
 - Family Doctor

Tort

Damages

- Discovery of the Plaintiff
 - Liability
 - History
 - Activities of daily living

Tort

Damages

- Expert Opinions:
 - Vocational/Psycho-Vocational Assessment
 - Physicians
 - Psychologist
 - FCC
 - Economist/Accountant

Tort

Damages

- Demonstrative Evidence:
 - Photo Album
 - Google map pictures of the scene
 - Medication or Treatment history charts

Conclusion

- Your professional reputation will not necessarily be measured by what you do on the big slam dunk cases but, rather by how vigorously you prosecute the rights of the little guy!