

Winning THE TRIAL OF THE SOFT TISSUE CASE

I. could be DIFFICULT CASES TO WIN

-BY DEFINITION THE INJURIES ARE DIFFICULT TO PROVE SCIENTIFICALLY,

2.LAWS ARE STACKED AGAINST PLAINTIFFS:

-CANNOT NAME INSURANCE COMPANY AS DEFENDANT,

-BURDEN OF PROVING A PERMANENT INJURY,

-PROPOSAL FOR SETTLEMENT FREQUENTLY FAVORS DEFENDANTS

3. CHOOSING THE RIGHT CASE TO TRY:

-AN HONEST & INJURED PLAINTIFF,

-credible/believable plaintiff with SOLID EMPLOYMENT
BACKGROUND & GOOD WORK ETHIC; OR IN CASES OF RETIRED PERSONS OR
STAY AT HOME MOMS; AN ACTIVE LIFESTYLE &/OR HIGH LEVEL OF FUNCTIONING
WHICH HAS BEEN SIGNIFICANTLY ALTERED.

-PROOF

-DOCTOR WHO IS TREATER AND ADVOCATE

- Medical Evidence of Injury (post-acc.) which
correlates to & supports the plaintiff=s symptoms;

- IF THERE IS A PRIOR ACCIDENT, Look to find
pre- accident radiographic or other studies to compare to the post-
acc. studies showing a pre-accident absence of the claimed injury,

-GOOD BEFORE AND AFTER WITNESSES

-USE AND ENLARGE ALL FAVORABLE EVIDENCE

-PHOTOS

-MEDICAL RECORDS

-HOSPITAL RECORDS

-BELIEF IN YOUR CLIENT

4. TRYING THE CASE SMART

YOU AS ADVOCATE

- YOUR PERSONAL STYLE
- PROFESSIONAL & COURTEOUS DEMEANOR
- CONVEY BELIEF IN YOUR CLIENT
- BE HONEST & FAIR
- BRING UP ANY & ALL DAMAGING/DIFFICULT FACTS YOURSELF-EARLY ON
- CONVEY A SERIOUS CASE
 - USE EXHIBITS
 - USE PSYCHOLOGISTS WHERE FACTS JUSTIFY IT
- TRY THE CASE TO WIN

5. IMPORTANCE OF VOIR DIRE

- OBTAINING THE RIGHT PANEL
- LIMITED TIME FOR VOIR DIRE
- MUST DESELECT AND PICK OFF ALL BAD APPLES IMMEDIATELY
- MEMORANDUM OF LAW ON CHALLENGES FOR CAUSE (HAND OUT)
- get economic & non-economic damage commitments

6. PERMANENT INJURY THEME

- THRESHOLD BURDEN MUST BE YOUR FOCUS THROUGHOUT THE TRIAL
- THREAD THE PERMANENT INJURY THEME FROM VOIR DIRE TO CLOSING AND THROUGH EACH AND EVERY WITNESS

7. USE PROPOSAL FOR SETTLEMENT RULE TO FAVOR YOU

8. COMMON DEFENSE TACTICS/PITFALLS TO AVOID/tips

-WHEN DEFENSE ATTY TELLS JURY TO AWARD 10K IN MEDICAL BILLS IN CLOSING.

-WHEN DEFENSE ATTY. ARGUES THAT HIS (INDIVIDUAL) CLIENT SHOULD NOT HAVE TO PAY FOR THE PLAINTIFF=S FUTURE MEDICAL BILL ,ETC.

-obtain prior transcripts of testimony from testifying defense doctors--contrast defense Ahired expert= plaintiff=s treating doctor,

-WHEREVER POSSIBLE AVOID THE SIGNING OF LOPS.

9. IF YOU CARE YOU WILL PREVAIL

-motivate jurors to do the right thing

-CARING IS CONTAGIOUS.

-CONVEY YOUR CARE OF CLIENT TO JURY & THEY WILL CARE FOR YOUR CLIENT TOO.