**WELCOME TO THE WORK COMP JUNGLE**

By: Kathryn Rooney, Senior Associate MSKW LLP

If you don’t know me, I am **Katie Rooney** and I joined MSKW in May 2019. I chose uncertainty over certainty, and for someone who likes routine and predictability, this was a bold move. The WCAB venues I generally handle are **San Diego and Orange County.**

When I met the founders, we hit it off immediately. Little did I know how much we actually had in common, both personally and professionally.

I knew I was joining a lifestyle firm (a firm that emphasizes a work- life balance) but I didn’t realize the “life” part would be so similar to mine. All of the partners prioritize exercise, and almost all meetings and trips involve some sort of workout. When I hit the gym at 5 am, about four times per week, I know two of the founders are about finished. Talk about a motivator! I bring this up, because this is crucial to clear mental/physical strength and dictates the direction of the day. I know they “get” it!

Professionally, I couldn’t possibly have foreseen the similar thought processes and strategies we possess.

When the founders asked me to write a DRIP article, I hemmed and hawed about a topic. Which recent cases are most compelling? What trends for and against defendants do I encounter regularly? What strategies can be implemented when an applicant attorney obtains a vocational expert (Hi Lynn)? How is an accepted toxic exposure case so maddeningly unpredictable?

Instead I’ve chosen to explain my top 10 negotiation and litigation strategies and techniques.

Read it and weep (or cheer!).

**KATIE’S 10 NEGOTIATION AND LITIGATION STRATEGIES**

1. **Identify client goals immediately**. Pick up the phone. One call between with the adjuster can ensure that the is clear on what has happened, what is happening and what we want to happen going forward. A LOT can get lost in email/text. I work with my client to understand both sides of our goals. We can start the aggressive litigation, understanding that this can be expensive, and accordingly we can also work towards expedited resolution. With this call, we can get to a place of knowing what we are comfortable with and the preferences on this particular file.
2. **Communicate Effectively**-  clarify any disagreements about strategy. Ultimately, our clients make the decision but any hiccups can usually be worked out!

1. **Identify the applicant attorney**. An unnamed founder (Matt Koller) and I in particular find that this dictates the direction of the case. If you know who you are dealing with, then you know if the case is going to:
   1. Go through an extensive litigation process (through med- legal stage until Applicant reached MMI status or trial)
   2. Can expeditiously settle at a depo with 5710 fee payment and/or strategically planned early conference
   3. Will need some discovery.

As soon as I determine who an applicant attorney is, if Applicable, I can immediately email/text/call Applicant counsel and say “Hey, its Katie and this file is coming to me/on its  way. Let’s settle!”.

1. **Contact and build rapport Applicant Attorney and their Office.**  More specifically,  the Applicant Attorney’s staff! Ask who the case manager is and get their direct number and email address. Why? Because most applicant attorneys have case managers and it is the case manager who puts you through to the applicant attorney when you need to talk to them immediately and is in regular contact with Applicant! I find the applicant attorney’s staff to usually be the most important person on the opposing side and so this relationship is critical to moving cases along.

1. **Be proactive.** Value case from the outset, obtain authority, contact applicant attorney and make an offer. This can happen very quickly. I recently was referred a file and I knew the applicant attorney very well. I contacted her (case manager) and got the bottom-line demand. I told my client she was no nonsense and this was the best demand we were going to get  (and it was reasonable). Guess what? We settled the case before I even got the file! Case closed in 14 days 💪

1. **Pick your battles**. Identify the most important issue for APPLICANT and work around that. Maybe it is money now! Well, that can work in your favor. Money now may mean less money overall. Maybe it is mileage reimbursement or out of pocket medical expenses; resolve those issue right away and move on to other things. Resolving something seemingly minor can set the tone for the whole case from the beginning. Best way to identify the most important issue to applicant? Ask! Don’t guess. They will tell you!

1. **Make the first offer**. You will know right away if you are way far apart, or if another $1,000-5,000 will resolve the issue. If you let them offer first, they are in control of the negotiations, and you know you’ll be the one chasing. Don’t be chasing. Be chased.

1. **Contact EDD.** In San Diego (more below), WCJs require EDD and child support clearance before they will approve a C&R. A lien inquiry is faxed to San Diego and faxed back. You will know in 24-48 hours if there is an EDD lien, how much it is and the period paid. The period paid is crucial because sometimes there are duplicate payments and that will need to come out of applicant’s settlement and can blow the settlement apart. Best to know as early as possible!

1. **Know your local board**. Every board has nuances and quirks. **San Diego** is my local board and there are quite a few oddities! For example, walk throughs on a Thursday require one to appear at 7:30 am to get a slot! Also, the San Diego board is short-staffed. This means mailing in documents will be delayed, subpoenas will be delayed (run EAMs to determine prior injuries and subpoena the applicant attorney or carrier file, not the board file to get it quicker), and your documents must be perfect or they will be rejected. Knowing your local board will save tons of time and money.

1. Finally, **CONTACT ANYONE AT MSKW WITH ANY QUESTIONS**.  **We know how to get things done for you**. Everyone is on the same team, there is no competitiveness, we work as a team for you.