**Negotiating with 3P (At fault Insurance Company)**

1. Complete Case Review (See Case Review 101)
2. Create an accounting draft that you save in a folder so you can update throughout the negotiation phase.
3. Determine if the at fault insurance company is a commercial carrier or not. A commercial insurance policy is often held by a business or a trucking company.
4. In it is not a commercial carrier, then you are dealing with common insurance companies, ones that you see advertise with commercials on TV (Geico, Progressive, State Farm, Liberty Mutual, Allstate etc.) These insurance companies have “adjustors” whose sole responsibility is to pay the least amount of money possible on any given claim. They conduct their own case review, determine a settlement value of a case based off of injuries, reasonable treatment, proven wage loss, and similar accidents with similar injuries their database shows them. The adjustors will do whatever it takes to settle the case for as little as possible.
5. With the above knowledge in mind, it is our job to fight for our clients and ensure they receive fair compensation for the accident/injuries they suffered. We do this through providing the human element to the case and introducing our clients story within negotiations, outlining factual proof of wage loss and medical bills, and arguing our clients case settlement value to be as high as possible.
6. Please note that these non-commercial insurance carriers have different levels of policy limits for bodily injury settlements. They differ from driver to driver and from state to state. For example, in the State of Washington, the minimum Bodily Injury Policy Limit a driver is required to have is $25,000. In the State of Texas, that amount is $30,000. While anyone can obtain a policy limit up to $1,000,000 or more, the average policy limit in the State of Washington is between $25,000 and $100,000 with 80% of drivers having the minimum. In Texas, almost 90% of our cases deal with the state minimum policy limit.
7. To begin, you must determine a case value for your client. This differs from case to case. Every client, accident, injury, wage loss, and situation is different from the next so you must be diligent when determining the case value. My first step would be to schedule a call with your client, introduce yourself, and ensure you have all of the correct information. Confirm with your client their specirfic wage loss number, all medical providers, get reasonaing for any gaps in treatment, figure out if they are still in pain or still suffering today, and show empathyf or them and let them know you will fight for them.
8. Once you have confirmed the above with the client, you must break down the Outstanding Medical Bill Total and Wage Loss, otherwise known as “Special Damages”.
9. Next, you must determine if there is any future treatment needed or future cost of care.
10. When doing these breakdowns and evaluations, I recommend sorting cases based off severity to help you determine case values. For example, if you have a client who had no hospital visit, chiropractic care only, and diagnosed with soft tissue injuries and minimal wage loss, this case is valued as a low-level case. In this situation, your target settlement goal should be a final settlement that is 3-4X the current outstanding medical expenses. So, if you have a chiropractic bill for $5,000, then a total settlement between $15,000 and $20,000 would be ideal.
11. Every case is different however, so in that same case where the client also had a concussion and was treated at TBI clinic, the value is not 3-4X the medical expenses, instead that value significantly increases.
12. Additionally, a case where a client has a fracture, broken bone, TBI diagnosis, these would fall under an extreme severity evaluation. A settlement for anything less then the policy limits on these cases is a fail (depending on the policy limits of course).

**RULES**

1. Rule #1 – You, or the Case manager, must relay all settlement offers to your client.
2. Rule #2 – You will not finalize a settlement of a case unless you have your client’s approval (a signed accounting).
3. Rule #3 – You will use a client story to provide the human element to the insurance company in your negotiations.
4. Rule #4 – You will seek help from your team or supervisor if something is confusing or concerning.
5. Rule #5 – A settlement that looks “good” to you, may not be the same for the client. Everyone has different levels of expectations with your client, discuss these with them before finalizing settlements.
6. Rule #6 – You will always leave yourself a $10,000 buffer of room to negotiate with on normal cases and $50,000 buffer on commercial cases.
7. Rule #7 – You will confirm all outstanding medical bills are included in your accounting and are accurate before sending to your client for signature.
8. Rule # 8 – You will not allow emotions to get involved in your negotiations.
9. Rule #9 – You will be professional in all correspondence with the insurance company. Present yourself as strong and always fight for your clients.
10. Rule #10 – Always give the insurance company a deadline to respond by. This is a very important rule as it ensure the insurance company responds to us and if they don’t respond or ask for an extension, it leaves them open to a bad faith negotiations claim potentially.

The next steps involve negotiation responses.

1. Once you have received an initial offer from the insurance company on a case, you must respond within 2 weeks.
2. In our demand packages, our initial demand is for policy limits. Most of the time, that demand is unrealistic, but it allows the insurance company to provide us with their evaluation of the claim and provide a starting number to work from.
3. If you know what the policy limits are, your first counter response should be simple and to the point. We want to send a counter demand with a number $5,000 less than the policy limits. So, for example, if the policy limits are $100,000, your first counter response should be for $95,000 and nothing else.
4. Your counter response should look like this.

“State Farm,

Thank you for your initial offer of $15,000 to settle my client Steve Smith’s claim. After review and discussion with my client, this offer has been respectfully rejected. In a good faith effort to resolve this claim, my client has allowed me to counter with a demand of $95,000. Please provide a response within 5 days. Thank you”.

1. Be sure to post all counter responses to the clients Filevine account. Label the subject line as “counter response to (insurance company name)”.
2. We don’t want to include any other information in the first counter response because we don’t want to limit the negotiations and we want to see how the insurance company reacts/responds. In some cases, the adjustor may provide a second offer that increases by $5,000 - $10,000 without any new information. This is great and I highly recommend you continue negotiations this way until you “need” provide new information. In other cases, the new offer may be $500-$1000 higher or the adjustor may not offer a new amount at all and ask you to provide details as to why our client has their case valued that high.
3. In the latter, this is when we want to start fighting for our clients and pointing out important facts about the case. You want to address any areas of concerns the adjustor may have presented (reasons for gaps in treatment, wage loss clarification, medical bill questions) and then start to introduce the client’s story into your negotiations.
4. When negotiating with an insurance company, you want to be tactical. You don’t want to pour all of your “eggs into one basket” as they say. You may feel tempted to provide all the information possible to the adjustor in your initial email response but then that leaves you with no “ammo” to use down the line. I recommend using small pieces of information in each email to help keep negotiations trending in a positive direction.
5. As you continue negotiations and receive new offers, be sure to update your accounting accordingly to reflect the new numbers so you can track your client’s recovery progress. This will help you manage the case better and see how close or far you are from reaching your client’s settlement goals.
6. I want to emphasize again that some adjustors may only provide small increases to the settlement, while others may have larger increases, do not take this personally. Simply continue to negotiate and bring up the important points and facts and stay strong with your counter demands.
7. It is important to negotiate reasonably however, while keeping your cushion be sure to work towards the common goal of settlement. Your goal is to get the adjustor to their final offer and even beyond if possible.
8. When you are getting close or the adjustor has provided you with the final offer, be sure to review the accounting with your supervisor and discuss what the settlement looks like. You and your supervisor will determine any necessary medical bill reductions we need and will task Maria to accomplish those reductions.
9. Once we have responses to those reductions, it is best to review the accounting with your client.
10. It is important to empower the client. Present to the client that you are reaching out with an update and let them know what the insurance company has offered. Advise them of the reductions you were able to obtain and finally explain to the client how much money they would be getting in their pocket after medical bills and attorney fees are paid. Then ask them the magical question “Mr. Smith, what do you think?
11. If the client is happy, have them sign the accounting and advise them you will work to finalize the settlement.
12. If the client is not happy, be sure to ask the client why, what are they expecting to receive, and ensure that you have all of the details accurate (wage loss, medical bills, etc).
13. Meet with your supervisor to discuss possible avenues for the case moving forward.