

Rembolt | Ludtke

We Find The Way®

*How the Legal and Medical Worlds Can Work Together to
Help Patients/Clients with Brain Injuries*

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HOW MEDICAL PROFESSIONALS FIT INTO THE LEGAL LANDSCAPE

Stages of Litigation

Phase 1: Pre-Litigation

Phase 2: Discovery

Phase 3: Trial

Phase 1: Pre-Litigation

- Medical Professionals Role in Pre-Litigation = Limited

-TREATMENT of patient

-Possibly: Initial private consult with attorney
GOAL = Education

Phase 2: Discovery

Medical Professionals involvement in phase 2 should include:

- Continued treatment of patient
- Provide medical opinions & prognosis
- Depositions
 - Discovery v. trial

Phase 3: Trial

- Attorney/Client Preference = Testify LIVE at trial
 - Why?:
 - Keeps jurors engaged
 - Added credibility/validity
 - Nonverbal communication

Phase 3: Trial

- If we can't get you to trial: ☹️
- Last Option – Trial Deposition
- How to make the best of it:
 - Meet with attorney before to prepare.
 - Dress the part.
 - Video record

TBI LAWSUITS

UNIQUE ISSUES / UNIQUE CASES

Objective v. Subjective Nature of Injuries

- Objective Measures
 - Medical Imaging
 - FMRI
- Subjective Measures
 - Reporting from Patient
 - Reporting from Doctor
 - Reporting from people who know Patient

Issues with Objective Measures

- TBIs = Complex Objective Measures
 - Try showing a jury a concussion on an MRI.
 - Compare to this...



Issues with Subjective Measures

- Reporting from Patient
 - Symptoms not identified immediately
 - “Masking” injuries
- Reporting from Doctor
 - Defense attorneys love ER reports.
- Others Witnesses
 - People who see the effects = people closest to the injured person.

Insurance Companies Reactions to TBI Cases

- Insurance companies are typically more skeptical of TBI cases than other cases
- #1 Reason = Lack of Education
 - Until recently: Categorized with muscle strains/sprains.
 - So-called “Soft tissue” injuries.

Mechanism of Injury

- Does not require this...



- Whiplash is enough.



**HOW CAN YOU
HELP
YOUR PATIENT?**

COMMUNICATION

YOU NEED TO MAKE
BETTER YOUR
METHOD OF
TALKING!

DO YOU MEAN
I NEED TO IMPROVE
MY COMMUNICATION
SKILLS?



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Communication

- Medical Reports/Charts
- Responding to Opinion Requests
- Willingness to meet with Patient's attorney
- Effective Testimony

Medical Documentation Matters



Opinion Requests

- Take your time.
- Explain the complex.
- Pick up the phone.



BEWARE BAD ATTORNEYS

Poor Communication

- Out-of-the-blue questionnaires.
- Pushing favorable opinions.
- The dreaded subpoena.
- No deposition preparation.
- Late notice of trial

Failure to Set Expectations

- Doctors should not be blindsided.

Failure to Pay Bills Timely

- Good attorneys' value medical professionals' time
- Medical Professionals should timely receive compensation for:
 - Preparing for and attending depositions
 - Responding to Medical Opinion Questionnaires
 - Reviewing client's file to prepare reports
 - Meeting with client's/patient's attorney

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Questions??

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