

CLAIM TO COURTROOM
Step by Step Guide to Litigation Readiness
by
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- I. Speaker Background
 - A. Matthew W. Tierney
 - B. Kristine D. Smiley
- II. The 5 Stages of Grief Can Be Applied to the Litigation Process
 - A. Denial
 - B. Anger
 - C. Bargaining
 - D. Depression
 - E. Acceptance
- III. The Litigation Team
 - A. Client and Staff (designated point person)
 - B. Lawyer, Associate and Staff
 - C. Roles of Each in the Litigation Process
- IV. Identification
 - A. Issue
 - B. Goals
 - C. Roadmap
 - D. Budget
 - E. Timeline

V. What to Look for in a Lawyer

- A. Knowledge
- B. Experience
- C. Expertise
- D. Communication Skills

VI. Stages of Litigation Process

- A. Pre-suit Investigation
- B. Initial Pleadings
- C. Discovery and Motions
- D. ADR (alternative dispute resolution), Mediations/Settlement
- E. Trial
- F. Post-trial/Appeal

VII. Pre-suit Investigation

- A. Collection and Preservation of Evidence
- B. Spoliation
- C. Retention Policies on Emails, Videos or Document Destruction

VIII. Communications with Counsel

- A. Attorney/Client Privilege
 - 1. What is Protected
 - 2. The Dangers and Pitfalls of Emails
 - 3. How to Avoid Inadvertent Waiver of Privilege
- B. Candid
- C. Point of Contact

- D. Timely and Effective Communication
- E. Trust

IX. Pleadings

- A. Service and Time Delays
- B. Communication with Lawyer and Providing Information and Documentation
- C. Importance of Communication and Providing Information
- D. Preparing and Defense and Strategy
- E. Exceptions, Answer and Responsive Pleadings

X. Discovery and Pretrial Motions

- A. Issuance of Discovery
 - 1. Interrogatories and What to Ask
 - 2. Requests for Production and What Documents are Being Sought
 - 3. Other Records to Request
 - 4. Where to Look
- B. Discovery Responses
 - 1. Client's Role
 - a. Gathering Information and Documentation
 - b. Identifying Witnesses and Potential Witnesses
 - 2. Complete and Accurate
 - 3. Supplementation
- C. Depositions
 - 1. What is a Deposition

2. Deposition of Adverse Party
 - a. Timing of Deposition
 - b. Formulating and Plan on Questions
 - c. Use of Exhibits in Deposition
3. Deposition of Client/Tips and Tricks
 - a. Be Prepared
 - b. Reviewing Documents
 - c. Listen to Exact Question
 - d. Answer “yes” and “no” and Only Explain if Necessary
 - e. Be truthful and honest
 - f. “I don’t know” and “I don’t recall”
 - g. Listen to Objections
 - h. Pause and Think Before Answering
 - i. Let the Attorney do the Dirty Work

E. Experts

XI. ADR/Mediations/Settlement

- A. Most cases settled prior to trial
- B. Timing of Settlement
 1. Early Settlement Avoids Increased Defense Costs
 2. Discovery may help to Reduce Potential Exposure and Decrease Settlement Value
- C. Mediations
 1. Costs

2. Choosing the Right Mediator
3. When to Mediate
4. Preparing for Mediation
5. Evaluating your claim
6. Mediating in Good Faith
7. Client Participation in the Mediation Process
8. Opening Statements
9. Offers v. Brackets
10. Conclusion of Mediation
 - a. Successful Mediation and Executing Documents
 - b. Unsuccessful Mediation and Where to Go From There

XII. Trial

- A. Preparation of Evidence
- B. Identification and Securing Witnesses
- D. Expert Testimony
- E. Evaluation of Costs and Time

XIII. Post Trial/Appeals

- A. Appellate Relief
- B. Evaluating Chances for Relief
- C. Legal Issues v. Factual Issues on Appeal
- D. Timeline for Appeal
- E. Establishing Precedent (good or bad)

XIV. Key Takeaways

- A. Teamwork
- B. Communication
- C. Honesty
- D. Realistic
- E. Identify Issues and Goals
- F. Well Informed Decisions

XV. Top 10 Pet Peeves of Lawyers and Clients

- 1. Lack of Communication and Timely Response
- 2. Unrealistic Budget
- 3. Unrealistic Timeline
- 4. Failure to Advance/Identify Issues and Goals
- 5. Failure to Accept Reality
- 6. Lack of Information Exchange and Collaboration
- 7. Lack of Preparation
- 8. Surprises
- 9. Failure to Adapt
- 10. Lack of Teamwork

XVI. The 5 Stages of Grief Revisited

- A. Denial
- B. Anger
- C. Bargaining
- D. Depression

E. Acceptance