

partners. Most importantly, in claims, you also have to be willing to admit you don't know something. But know it's your responsibility to know where to go and get the answers."

This philosophy has apparently served ZC Sterling well. According to Mr. Williams, in the months following the Awesome Adjuster training overall claims call volume fell almost 30 percent, even though new claim volume stayed the same. Also, overall claim cycle time has improved, while customer complaints have decreased.

"All of the customer service training we're providing is part of our goal to lay a strong foundation for the future as we look to improve our people, processes, and technology to adapt and evolve to a new 'norm' for claims," Mr. Williams said.

In these tough economic times, most companies are even more careful to pay what is owed and not a dollar more or less. In order to do this, claim teams are going to have to be ready to be even more professional, especially where customers may not necessarily agree with what insurers decide should be paid or not paid.

"Our people need to be better prepared to deal with the variety of people and behaviors we work with on a daily basis in one of the toughest economic and claims environments ever," Mr. Williams commented. "The training we have used, and the ones we are considering, will help us keep our customers first while we strive to implement process and technology changes to be even more efficient."

For his people, Mr. Williams has recently ordered the "Conflict Resolution for Claims" course to help with finding solutions for both his employees and customers. When asked if he has ever faced a situation for which there were no answers, he replied, "As they say, 'no solution is not a solution.'" ■

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# Tips for Negotiating with Attorneys

In negotiating abstract items or issues, such as injury claims, the value is rarely exact or known. That is why we negotiate in ranges. Both the attorney and even injured claimant are speculating as to the value of the claim. This can either work against us, or we can make it work for us. Through our effort, tenacity, and patience, we can help and guide them to settlement that is fair for all parties. We need to first demonstrate that it is our goal to be fair.

The biggest obstacle may be reshaping their expectations. A claimant will not settle, regardless of the amount, if a person feels you are ripping them off. But again, if their expectations were founded on speculation, then you will find success through effective communication of your knowledge and abilities. Once their expectations are open to considering your position, you can proceed to earn their trust and respect through a collaborative negotiation process.

## Research the Attorney

1. You need to first look up your attorney name on your given state's attorney bar website.
  - ▶ What year did the attorney pass the bar?
  - ▶ Is the attorney a sole practitioner or part of a law firm?
  - ▶ What is the attorney's area of specialty?
2. Peruse the attorney's website to gain knowledge.
3. Talk to other adjusters to see if they have any insight to share.
4. Start an informational database on each attorney. Make note of his or her background, negotiation style, and settlement results.

## Know with Whom You Are Dealing

It may be advisable to have one or more conversations with the attorney before you even start discussing the value of the case. These conversations should help you to not only develop rapport, but also develop a game plan. While there are certain aspects of your game plan that you may want to

stick with, it should be a fluid document that evolves throughout the course of the negotiation based on knowledge and insight that you gain through the process.

## Here are some issues to consider when developing your game plan:

- ▶ Determine what you need to get at a minimum (or the absolute most you would be willing to settle for. Discuss LUC).
- ▶ What you can concede (if anything).
- ▶ What they are willing (or able to) concede.
- ▶ What leverage you have.
- ▶ What leverage they have.
- ▶ The time constraints either or both of you are working under.
- ▶ Who has the greatest risk? Ponder the potential trial outcome.
- ▶ Your strengths and how will you communicate them (without implying).
- ▶ Your weaknesses and how will you counteract them.
- ▶ Reach an agreement on everything you possibly can.
- ▶ Be dedicated and ready to work diligently for the most effective negotiation.
- ▶ Resist temptations to negotiate dollars until you have negotiated agreement and cooperation on all other aspects of the claim.

## Negotiate with the Right Person

It is always beneficial to negotiate with the person that makes the decisions or has the authority to settle the claim. Obviously, if the claimant is represented by an attorney, then we must go through this attorney. However, there are still several factors that can help us reach the most effective and efficient settlement along the way. In addition, it is important to convey that you are the right person to negotiate on behalf of the insurance company. If you indicate that you do not have authority — and are only acting under the guidance and direction of a manager — then the attorney will try to deal directly with the manager to negotiate the claim.

Some important considerations in laying the foundation with the person

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you will be negotiating with are as follows:

- ▶ Try to deal with the attorney rather than the paralegal. This may save you time in waiting for the paralegal to consult with the attorney, who must then consult with the client during every step of the process.
- ▶ Confirm whether the attorney has full settlement authority and/or is in a position to settle today. This can take away the attorney's excuses of not being able to reduce his demand without first consulting with his client.
- ▶ If attorney doesn't accept your offer, then request that he take the offer to the client anyway — there is a legal obligation to do so anyway — and follow up on your offer in writing. Be sure to reiterate the latest offer, demand, and your strengths. Putting the offer in writing gives it legitimacy and memorializes the status of the negotiation.

**Assess the Attorney's Knowledge**

You should know if the attorney has met the claimant in person. If they have indeed met, then determine how many times and when they last met. You may ask for his or her impression of the claimant. Another question to ask is how this injury has affected the claimant's lifestyle (hint: surveillance information to be gathered here). Can the attorney explain the onset, nature, causation, and restrictions of the injury?

**Identify Negotiation Styles**

Once you identify the best person with whom to negotiate, it is equally important to identify his or her negotiating style. This will help you to understand how to best negotiate with them. Imagine if you tried to negotiate with Donald Trump by first taking a long time to explore his thoughts and feelings, and then empathizing with him on any prior bad negotiating experiences. Just as this empathetic style would likely get you fired from that negotiation, you need to make sure you are undertaking the best possible approach in all negotiations. Hint: If you are unable to readily assess how a person wants to negotiate, or what their negotiation style is, simply try asking them!

As we read through these different personality characteristics, try to pinpoint which style best describes you. Which

style best describes your spouse or significant other? How about your parents?

**A. Sympathetic/Compassionate**

**Characteristics include:**

- Seems to really care for the well being of his or her client.
- Appears to truly negotiate on the client's behalf, rather than for his or her own interests.
- Talks about the client's feelings, pain, and distress.
- Takes lower offers personally.
- Uses "feelings and emotion" rather than "facts and analysis" to justify value.

**How to deal with them:**

- Show them they can trust you as a person
- Take time to develop rapport
- Show them you want to be fair
- Take time to listen to their issues and concerns
- Show empathy and apologize
- Restate their position
- Go slow

**B. Gregarious/Affable**

**Characteristics include:**

- Appears to not take anything seriously or to heart.
- May not stay on topic.
- Rushes through things.
- Is a spontaneous decision maker.
- Is friendly and sociable.

**How to deal with them:**

- Try to keep their pace in the conversation.
- Be social, outgoing, and relaxed.
- Pin down a specific as soon as it is touched on (before the conversation quickly turns to the next topic).
- Allow them to talk — as this is what they love doing — but listen attentively and take detailed notes.
- Seek collaboration and avoid combativeness.

**C. Analytical/Thinker**

**Characteristics include:**

- Makes it a point to research and understand the issues
- Is slow in decision making process
- Not overly social or friendly
- Detail & fact oriented
- Works hard to overcome obstacles

**How to deal with them:**

- Allow time to go over facts and details in

depth.

- Illustrate your efforts to gain knowledge about their client and the injury.
- Don't rush the process, but make it known that you are ready to settle when they are.
- Keep conversation cordial, but professional and on topic.
- Restate factual points both verbally and in writing to confirm understanding.

**D. Assertive/Demanding**

**Characteristics include:**

- May speak in a "short-and-to-the-point" manner.
- May expect preparedness.
- Doesn't like to explain things.
- Is quick/decisive during the decision-making process.
- May care little for rapport, small talk, or socialization.

**How to deal with them:**

- Mirror their pace of conversation.
- Be prepared.
- Stick to the points.
- Give specifics and stay away from generalities.
- Avoid any ambiguous statements.

**E. Angry/Bitter**

Be careful not to confuse this with assertive/demanding types. **Characteristics include:**

- Argumentative.
- May be insulting.
- Extremely difficult to please (even when you offer concessions).
- Is intolerant of excuses or reasoning.
- May control the conversation in a combative way.

**How to deal with them:**

- Acknowledge their statement and perspectives as being reasonable.
- Don't offer excuses.
- Don't accuse them of being angry.
- Provide "general/if" apology, if appropriate.
- Propose a specific remedy or action plan.
- Avoid ambiguities.
- End on a pleasant note. For instance, thank them for their cooperation. ■

*"Negotiating with Attorneys" is a full-day workshop offered through the International Insurance Institute. For more information, visit [www.insuranceinstitute.com](http://www.insuranceinstitute.com) or call 504-393-4570.*