

## TRIAL

Good counsel

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# Make your settlement demands persuasive

Even though insurance companies have started using computer programs to evaluate cases, there is always a person—the adjuster—who can raise or lower the value of a specific case. Both sides have an incentive to try to settle the case before incurring the risk, additional expense, and time commitment of litigation. Present the adjuster or defense counsel with a persuasive demand letter that shows what you will prove to a jury if the case cannot be settled.

**Make your client a person and not a claim number.** The person reading the demand letter probably sees hundreds of them each year. Include background on your client: a picture, date of birth, family information, schooling, employment, and hobbies. Refer to the client on a first-name basis, not as Mr., Ms., or “client.”

**Write the demand letter as a story.** Anyone can put together a list of dates and diagnoses, but these will leave the reader with unanswered questions: Why did the client go to the doctor or refuse treatment at the accident scene? Why is there a six-month gap in treatment? Why was the client referred for physical therapy? Anticipate these questions and answer them by telling your client’s story in a way that puts his or her claim in the best light possible.

**Organize the medical records.** Sort them by provider or date. If you put the medical records in chronological order and the provider sent them to you in another manner, explain that you rearranged them that way for the reader’s convenience.

**Acknowledge the case’s weaknesses.** The adjuster probably is experienced in reading medical records and finding flaws in every case. When you acknowledge weaknesses up front, you defuse the other side’s arguments and gain credibility by showing that you have considered these weaknesses in making your demand.

**Include witness statements, videos, or photographs.** Consider including witness statements or videos that you are going to present at trial. If the damages are catastrophic, a “day in the life” video or pictures of therapy may be appropriate. Some cases may warrant including photographs of your client’s scars, the client wearing appliances, or damage to vehicles.

**Include research on medical issues.** Some areas of medicine are not well known or accepted. For instance, mild traumatic brain injury and temporomandibular joint dysfunction are often missed by medical providers or not given adequate consideration in demands.

**Proofread.** Demands often include spelling, grammar, and punctuation mistakes, which the reader may notice and attribute to laziness. Such errors may give the impression that you will be equally lazy in litigation.

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