

## **PERSUADING AT EVERY OPPORTUNITY**

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1. The Complaint: Framing the Case and Setting the Tone
  - a. If the facts are in your favor – use it.
    - i. Liability
      1. Age of parties: very young/very old
      2. Type of vehicle: truck, fiat, bus used to transport senior citizens
      3. Place: school zone
      4. Others: Drunk driving, no license, night of thanksgiving
    - ii. Damages
      1. Fractures - comminuted/displaced
        - a. List each one
      2. Surgeries – ORIF, pinning, debridement of ulcers
        - a. List each one
2. Interrogatories: Painting a Clear Picture of the Case
  - a. Be specific in answering client’s version of form interrogatories
    - i. Helps client
    - ii. Helps lawyer
    - iii. If client falters at deposition - can be used as fall back
3. Depositions: Painting a Clear Picture of the Defendant
  - a. Videotaping discovery depositions
  - b. Getting deep into liability issues to discover the “dirty facts”
  - c. Reading verbatim the killer questions
4. Own Investigations: Adding Finishing Touch
  - a. Company Website – a wealth of information re: specializations and photographs
  - b. Photographs
    - i. If rain/snow case – go back to location of slip and fall for similar weather
  - c. Reviewing Websites (ex: Trip Advisor and Yelp)
    - i. To prove notice (actual and constructive)
    - ii. To prove lack of maintenance in general
  - d. Other instances akin to facts in your case
    - i. Nursing Home: similar violations of the Federal OBRA
5. Mediation/Arbitration
  - a. Arguing the time unit rule at arbitration allows you to suggest dollar amounts otherwise prohibited at trial
6. Trial
  - a. Empowering the jury
  - b. Compensation for pain, not the injury
7. See the opportunity in every case and not the defense