

Trial Tactics for Insurance and Corporate Defense Cases

Insurance companies and corporate defendants often begin a lawsuit at a disadvantage due to the mere fact that they are being sued by a plaintiff who alleges to have been injured and/or damaged. It is therefore crucial to immediately change the dynamics of the relationship to gain the upper-hand, or at least reverse the plaintiff's momentum to achieve a more favorable result.

How does the corporate and insurance defendant accomplish this turn-around?

While the facts and legal issues of each case are different and may dictate specific strategy, there are common steps defendants can take to change the relationship moving forward.

An article published by the Federation of Defense and Corporate Counsel offers several strategies. [[FDCC Quarterly/Winter 2010](#)] Although this article is geared toward toxic tort litigation, many of its ideas can also be useful for insurance companies and corporate defendants on a broader scale. They include:

1. Personalizing the insurance company or corporate client by presenting the testimony of hardworking employees (to gain juror sympathy).
2. Using low-tech trial exhibits, like poster boards and flip charts, to emphasize that the corporate client is not a huge, faceless multi-national conglomerate that can afford high-tech trial exhibits (and can therefore pay a much higher monetary award).
3. Addressing the central theory of the plaintiff's case head-on with easy-to-understand testimony and simple exhibits that demonstrate the weaknesses in the allegations being asserted.
4. Attacking the plaintiff's expert testimony and seek to have the court exclude it under evidentiary rules by demonstrating the testimony is not reliable or sufficiently related to the facts of the case to be useful or relevant, and to show that the expert tests did not use reliable methodology.
5. Presenting persuasive arguments to convince the judge to revise the questions to be submitted to the jury in ways that may favor your client.
6. Presenting evidence of other defendants who may be responsible or culpable for the damages alleged by the plaintiff in your case.

By following these and other strategies, counsel may be able to turn the tide and enhance the likelihood of a reasonable settlement or limited award in favor of their corporate and insurance company defendant clients.

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