

What Plaintiff's Lawyers Don't Want You To Know

Keep Your Composure and Money
When You Face Personal Injury
Litigation

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Plaintiff Personal Injury Lawyers Get Rich Off of Job Site Injuries



Illinois Wall and Trench Collapse Injury Attorneys

\$1,350,000 settlement for an ironworker who tripped in a hole which had not been properly backfilled.

\$1,412,069 settlement in a construction negligence case for an ironworker who suffered a back injury when he slipped on a construction site.

\$1,100,000 settlement for an ironworker who sustained an ankle fracture when a beam stored on uneven ground rolled onto the worker.

Painful Reality = Personal Injury Litigation Steals Your Profits

- Out of pocket payments by defendants for deductible or self insurance deductible;
- Attorneys Fees;
- Excess verdict payments;
- Responsibility to Provide Additional Insurance Defense for Co-Defendants;
- Increase in Future Insurance Premiums.

Confession

I started my career as a

Plaintiff's Personal Injury

Attorney



Why Leave the Plaintiff Side?



Secret #1 – Plaintiff's Lawyers Can Invent a Valuable Lawsuit

- Investigators Recruit Union Brothers and co-workers to provide valuable testimony;
- If You Beat Them to the witnesses, you might control the litigation.
- Million \$ Parachutist.



SOLUTION = Witness Interviews

- Lock in testimony of co-workers and witnesses ASAP – it a race v. Plaintiff's Lawyer.
- Talk to witness before you record testimony – what if statement kills your company.
- Kick the Hunters off of your site.
- Know the issues – Know the Questions.

SOLUTION = Witness Interviews

Defense Investigation Tip

- Early coordination between contractor and claim investigators/defense attorney is crucial.
- Resist the urge to fire employees at least until investigation is finished.
- Multiple statements of the same person are a big problem
- Use good interviewing techniques.

SOLUTION = Witness Interviews

“Good Samaritan Factor”

TIME AFTER ACCIDENT	WITNESS MEMORY	WITNESS COOPERATION
Same Day	Excellent	Excellent
24-48 hours	Excellent	Good
3 Days	Excellent	Fair
7 Days	Good	Witness Fatigue
2 Weeks	Good	Lawyered Up
1 Month	Fair	Not likely...
3 Months	Diminished Recall	“Wait for my deposition”

SOLUTION = Investigation

- Preferred Counsel for issue discussion
- Photos and Measurements
- Parties at Fault
- Preserve Evidence of Training to Plaintiff and fault of others
- People with knowledge about: accident, fault, control of work and safety, injuries.



SOLUTION = Investigation

Investigate any serious accident

- Plaintiff attorneys and co-defendants do not want you to have a good investigation.
- False sense of security will come back to haunt you.



Secret #2 – Safety Programs & Contracts

Burden Of Proof – Duty:

- Control work Means and Methods & Safety;

Burden Of Proof – Notice:

- Know about Unsafe Condition + Failure to eliminate.
- Create unsafe condition.

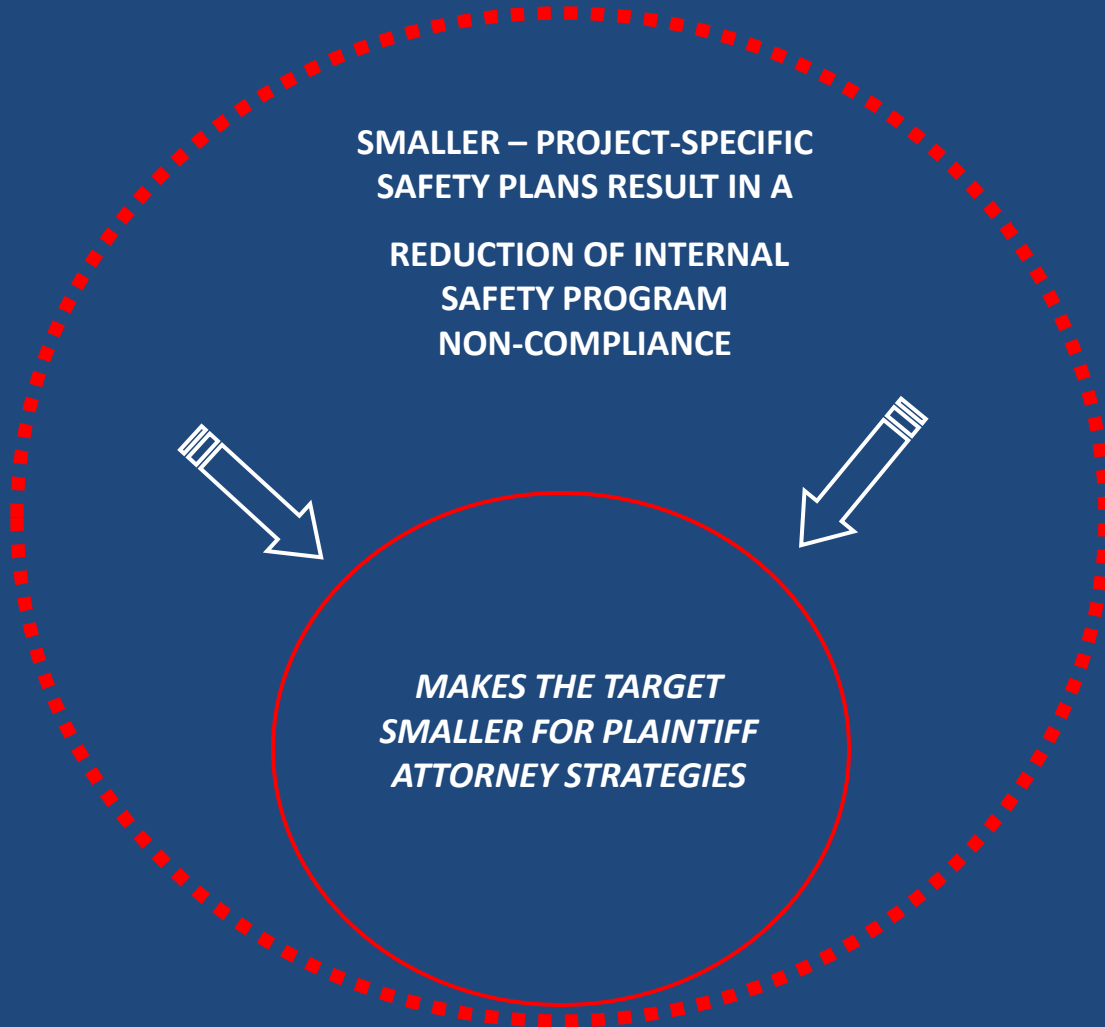
- Actual Case = Engineer's \$12M safety plan.

- Safety Rules for Others = control.

SOLUTION = Protect Your Company

- Safety Manual Language;
- Job Site Documents – Daily Logs, Safety Inspection Reports, Safety Meeting Minutes, Accident Reports.
- Case Examples:
 - * Wilkerson – GC 21 rules created duty;
 - * Aguirre – Inspect Scaffold of Others;
 - * Logs or reports listing safety defect but no reference to correction.

SOLUTION = Protect Your Company *Reduce the size of the Safety Target*



WORK COMP CLAIMS HAPPEN



Secret #3 - Work Comp Claims Can Create Personal Injury Lawsuits

- COSTLY CYCLE – Employee WC Claim + Lawsuit verses SUB , GC, OWNER = Defendants sue your company.
- Plaintiff DISCO DANCES all the way to the bank.



WC = Future \$ Loss if Lawsuit

- Expect Work Comp claim by employee and Lawsuit naming you as 3rd party Defendant if your employee is injured in the scope of employment.
- “It’s really just a WC claim” hides the long-fuse of a future lawsuit.
- Guard your company.

SOLUTION – Claim Management

- Attorney and case Budget .
- WC Lien Calculator .
- Early Lannom Settlement guarantees lien \$ and attorney \$ saved.



Secret #4 = 98% of Cases Settle

Solution - Most Plaintiff's Attorneys Will Settle Early If:

- * Plaintiff's co-workers or neutral witnesses blame plaintiff;
- * No Notice Evidence;
- * Strong witnesses testify plaintiff at fault;
- * Weak damages.

- * Over 50% contributory negligence = NG;
- * Your company exercised reasonable care;
- * Your Lawyers are competent, tough and send the message that it will be a difficult and costly fight;
- * Plaintiff's attorneys fear losing.

SOLUTION = Best Practices – Company Claim Management

- Initial Investigation;
- Insurance Coverage and Risk Transfer;
- Preferred Counsel;
- Litigation Plan and Budget for Attorneys;
- Discovery – make Plaintiff’s counsel fear his own case.



If You Have a Strong Team, You Can Relax...



ANY QUESTIONS?

