

Why Some Cases Settle and Others Go to Trial

What Factors Go Into These Decisions

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Learning Objectives

- Review who decides whether a case settles or goes to trial
- Analyze the factors that play into the decision to settle or try a case
- Articulate the rights of a named defendant to participate in and consent to a settlement decision

Who Are the Decision Makers?

- __ Insurer
- __ Policy Holder
- __ Assigned Counsel



What Goes Into Settlement Evaluation

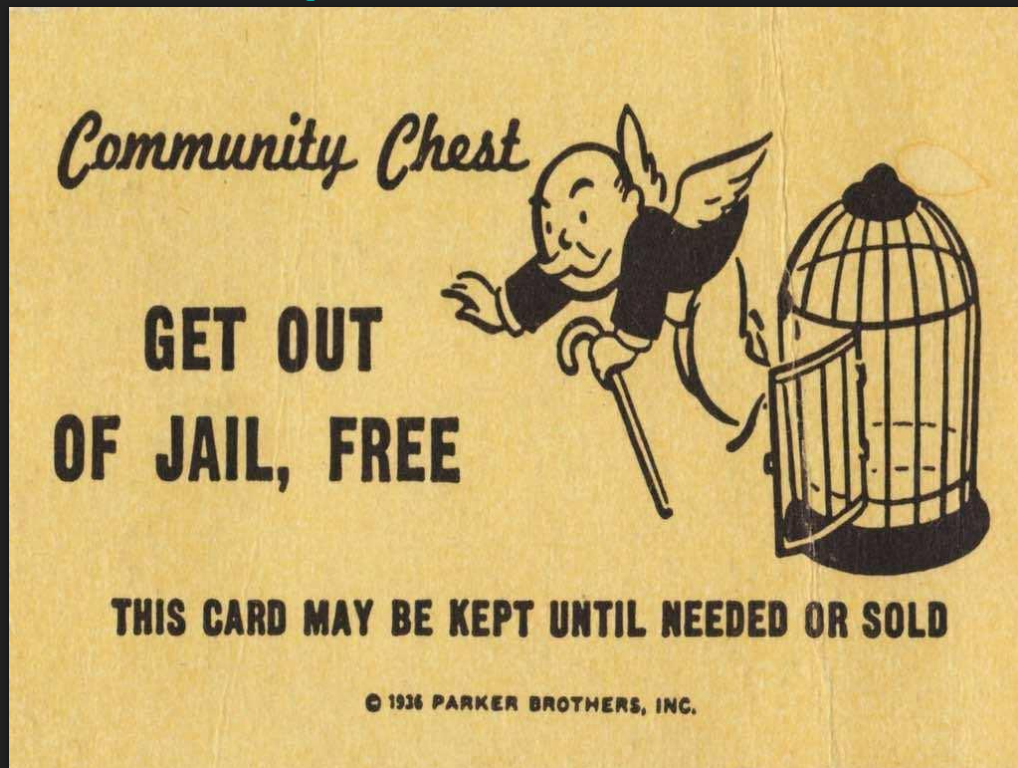


Settlement Evaluation: Venue

- __ Federal v. State Court
- __ Number of Jurors
- __ Unanimous Verdicts
- __ Reputation of Judge
- __ Appellate Courts



Settlement Evaluation: Witness Credibility



- — Decedent/Estate Representative
- — Admissibility of Criminal History
- — Prior Licensure and Legal History
- — Role of Depositions

Settlement Evaluation: Experts



Credentials/Bias

Standard of Care

Causation

Settlement Evaluation: Risks

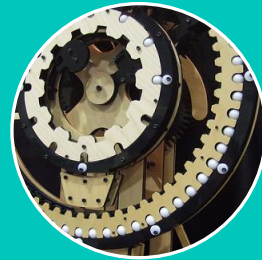
- ___ Statutory Caps
- ___ Special Damages
- ___ Punitive Damages
- ___ Fee Shifting
- ___ Pretrial Publicity



Consent to Settle Clauses



Policy Holder has
Consent Rights



How Consent
Works



What Happens
at Trial



Know Your Rights and When to Raise Them

- ___ Right to Personal Counsel at Your Expense
- ___ Right to a Copy of Your File Materials
- ___ Participation in Analysis, Settlement Discussions and Mediation ADR
- ___ Review of Insurance Policies
- ___ Right to Request Additional Resources

Other Important Points to Consider

Policy Stacking

Reporting Requirements

Alternatives for Payment



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