



TEN TIPS FOR CLOSING PROBLEM CASES

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1. Thoroughly study and analyze the barriers to resolution, which have been present in the past. Identify their basis in fact or law, and their dollar value.
2. For each barrier to resolution identified, determine if it is serious, marginally important or an excuse for generalized resistance to closure.
3. Regarding barriers to resolution which appear historically to be serious, identify the nature of the issue and all stakeholders.
4. Carefully take stock of your interest, or your client's interest, in the serious issues in relation to the interests of other stakeholders.
5. Honestly identify and evaluate your strengths and weaknesses with regard to the serious issues, and do the same in regard to the strengths and weaknesses of the other stakeholders.
6. Establish the most productive structure for resolution paying careful attention to the nature of the barriers you have identified.
7. Clearly present your client's position to the third-party neutral in a way which brings the neutral into partnership to seek a resolution. Create a team with the neutral in which you are the leader and the neutral is the coach.
8. Concisely acknowledge obvious weaknesses in your position after you focus on clear and convincing strengths in your case — gain the trust of the neutral.
9. Prioritize issues of lesser importance and address them after you have reached consensus on the serious issues.
10. If the resolution is not achieved, isolate for future dialogue the true barrier and analyze the probability that it will remain a barrier going forward. Develop a strategy to erase it as a barrier prospectively.



With more than 25 years' experience, Jaymeson Pegue focuses on insurance coverage, bad faith, and subrogation matters, and provides coverage analysis and advice to clients. jpegue@ntptlaw.com