



IRMI[®]

Workshop E

ACCIDENT INVESTIGATION TECHNIQUES

Presented by

**William Noonan
Regional Claim Manager
Turner Construction**

Tuesday, November 9, 1:30–3:00 p.m. and 3:30–5:00 p.m.

Workshop E

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William Noonan
Regional Claim Manager
Turner Construction

Mr. Noonan is presenting Workshop E, "Accident Investigation Techniques," on Tuesday afternoon. He is a regional claim manager with Turner Construction. He is a member of the Claims, Safety, and Operations Task Force and the Crisis Response Team. Previously, he worked for Special Risk Service and Metra Commuter Railroad, both in Chicago.

Mr. Noonan started his career working for W. Noonan and Associates, his father's firm that specialized in preparing very high exposure claims for trial. He has spent most of his career working to improve the quality of liability investigations from the time they occur, and focusing on the benefit a company or organization receives when an experienced investigator and trial attorney work together as a team.

Notes

This file is set up for duplexed printing. Therefore, there are pages that are intentionally left blank. If you print this file, we suggest that you set your printer to duplex.

ACCIDENT INVESTIGATION TECHNIQUES

*William Noonan
Turner Construction*

A picture is worth



Why juries like Construction Claimants???

- ▶ Oftentimes a hard worker all his/her life.
- ▶ Oftentimes a family man/woman.
- ▶ Oftentimes still has children under age 18.
- ▶ Usually has no other employment training, so their trade career is over.

Why juries like Construction Claimants???

- ▶ And more than all the above, most jury members relate to the claimant more than they do to either the defense or plaintiff attorney, or the corporate defendant.
- ▶ Jury members often relate more with the injured worker and his family than they do with the attorneys or corporate defendants.

Two Important Mindsets

- | | |
|--|---|
| ▶ Plaintiff Attorney | ▶ Jury Member |
| ▶ Skilled at finding a deep pocket to blame. | ▶ Naturally tends to feel sympathy for the injured. |

Change Your Thinking: Think Like a Plaintiff Attorney

- ▶ You already know your company is not liable, but it's a jury you must convince.
- ▶ Spend less time defending and being right, and spend more time looking for other parties that caused the incident.
- ▶ Step back and think, if I was the plaintiff attorney, what theory of liability would I be creating?

Critical Issues

- ▶ Prompt reporting to Insurance Company
- ▶ Identification of Witnesses
- ▶ Preservation of Evidence
- ▶ Identification of other parties
- ▶ Protecting reports from discovery

Prompt Reporting to Insurance Company

- ▶ The adjuster has a large advantage.
- ▶ Long delays increase our exposure.

Identification of Witnesses

- ▶ Obtain the name and contact information of all possible Witnesses from the project staff.
- ▶ Request a master list of all workers on a project from the Project Manager.
- ▶ CCIP/OCIP Projects- Certified Payroll Reports.

Identification of Witnesses

- ▶ Visit the site at the same time as the incident occurred
- ▶ What people are usually in that area at the time of the accident? (Coffee truck, Postal workers, etc.)
- ▶ Obtain all Witnesses listed on Police, Fire, and EMS records

Not Every Witness Is An Eye Witness!

- ▶ Many times, what happened before an accident (minutes, hours, days) is very important to our defense.
- ▶ Since most work is performed by a sub-contractor, it is often our supervision and control of a site that plaintiff attorneys key in on.

Witness Statements

- ▶ Have a Witness statement guide with you when you take statements.
- ▶ Under the stress of a serious incident, even a seasoned veteran can forget to ask an important question.
- ▶ Interview Witnesses before you record their statement.

Witness Statements

- ▶ Check with defense counsel and ask if they want recorded statements or interview memos.
- ▶ Only take one statement per witness.
- ▶ If a Liberty Field Investigator is responding, let them take all of the Witness statements.
- ▶ Remember to document what type of Witness you believe the person would make.

Preservation of Evidence

- ▶ All physical evidence associated with a claim should be saved for use as evidence.
- ▶ Some examples of physical evidence are ladders, fall protection, rugs, plywood, slings, wire rope, hard hats, gloves, etc.

Preservation of Evidence

- ▶ Let the insurance carrier adjuster or defense counsel decide what to throw out; if you have doubt, "save it."
- ▶ Remove evidence from any areas where it may be thrown out or altered.

Official Project Paperwork

- ▶ Copies of all permits (Local, County, State).
- ▶ Copies of all inspection reports.
- ▶ Copies of any previous violations.

Special or Hazardous Operations

- ▶ Examples would be a critical lift (crane) or a blasting operation.
- ▶ Copies of all pre-planning meeting minutes.
- ▶ Copies of any critical lift plan prepared.
- ▶ Copies of any independent consultant report (Engineer, etc.).
- ▶ Copies of any special government permits needed for operation.

Photographs

- ▶ Document where claimant was at the time of the incident, and condition of where claimant was working.
- ▶ Always remember that your photos must tell a story to those that will never see in person what you have seen.

Photographs

- ▶ No pictures of blood, police, EMS, Fire, or Clmt with these parties. They will later only be enlarged to get sympathy from a jury.
- ▶ Remember to take 35mm on serious incidents as well as digital.

Identification of Other Parties

- ▶ Obtain proper names of all sub-contractors, vendors, and consultants on a project.
- ▶ Determine the name of the company/ organization of every person you interview, every person involved in the incident, and all parties working on the site at the time of the incident.

Protecting Reports From Discovery

- ▶ **Claim Coordinators should be familiar with “work product” and “attorney-client communication” rules in their specific state. Your local defense counsel can assist you with this information.**
- ▶ **On serious incidents, all reports should be written to our defense counsel, and copied to only those in the “control group.”**
- ▶ **Who is in Turner’s control group.**

Can We Be Human and Caring without Being Held Liable?

- ▶ **Turner is a nationally known name; we are a company that cares about injured workers, their families, and our neighbors.**
- ▶ **A visit to the hospital to check on an injured worker is not an admission of liability.**