

# Identifying and Defending Against New Litigation Tactics

## Outline

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- I. Introduction
- II. Trial Trends
  - a. What are we seeing in terms of claim buildup
    - i. Early policy demands
    - ii. Reptile Theory/Waiver of Specials
    - iii. Injections
    - iv. TMJ/TBI/Ear Injuries
    - v. Radiographic Fraud Scams
    - vi. Upcoding
  - b. What else are we seeing?
    - i. Durable medical equipment issues
    - ii. Billing for services not rendered
    - iii. Double billing
    - iv. Factoring companies
    - v. Examples
- III. Early Policy Demands
  - a. Why are they served?
  - b. How to appropriately respond
- IV. Reptile Theory A-Z
  - a. What is it?
  - b. When will you see it?
  - c. How to deal with the reptile theory in discovery
  - d. How to deal with the reptile theory in trial
  - e. How can we fight back?
  - f. Why waive special or economic damages?
  - g. What is anchoring?
  - h. How do you argue against this tactic?
- V. Injection Fraud
  - a. Billing for epidurals but performing trigger point injections
  - b. Charging anesthesia when not required
  - c. Charging facility fees when not required
  - d. Performing unnecessary injections
  - e. Upcoding
- VI. Plaintiff Litigation Trends
  - a. TMJ
  - b. TBI
  - c. Ear Issues
    - i. War Story
  - d. Syringomyelia
- VII. Radiographic Fraud Schemes
  - a. Stand up MRIs
  - b. New MRI trends
  - c. Upcoding

VIII. Other Issues

- i. Durable medical equipment
- ii. Billing for services not rendered
- iii. Double billing
- iv. Factoring companies
- v. Examples

EXAMPLE