

## Fraud, Lies and Video Tape

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This year's Northern California Fraud Investigators Association Conference once again was full of helpful information to the Fraud Fighters in the street. One impressive seminar covered plan of attack after capturing incriminating video evidence. Even though average claim cost of \$50k+ and those of suspicion run around \$100k might not seem like a lot when the Fed is talking about deficits in the Trillions, it is a big deal for you and your employers. Therefore, developing an aggressive game plan for getting the District Attorney on board for taking your case is crucial. This particular seminar dealt with impeaching a medical opinion, and I wanted to share the presenters' thoughts.

Doctor Depo #1 is taken of the most difficult doctor first to get a feel for what you're dealing with. During this meeting the physician is asked what he/she relied on to make the determination of disability on the exam. Next line of questioning is what it would take to change the doctor's opinion. In the meantime you're getting the Claimant's Depo during which testimony is given about restrictions, and you've got the video that shows the Claimant moving about beyond stated restrictions. You've followed the Claimant to the Depo, on which date the Claimant quite often is looking like it took everything he/she had just to get out of the car; hence, a Lie.

Now it's time for Doctor Depo #2. Video is disclosed 20 days before Depo. Questions for the doctor are mapped out beforehand so that he/she is answering "yes" and "no". Video is then **delivered** to the doctor, who is now questioned about the inconsistencies in the Claimant's movements and the doctor's opinion expressed in the prior Depo. Someone (our defense attorney or investigator) must sit with the doctor and go over the activity piece by piece to point out the significant inconsistencies, and hopefully you've now got the game-changer.

However, now that you've got the Doc on the same page, you've got to think about how the video will fare in Criminal Court. Yes, even the slightest misrepresentation of Fraud can get the conviction (or at least the Plea Bargain), but the best cases have the "WOW" factor. Is there something in the film that will make the hair on the back of the Juror's hair stand up like it did yours?

Remember, Jurors are your neighbors and might be sympathetic to that poor Claimant sitting at the Defendant's table in a neck brace along side the walker used to hobble into the court room every day they went through the Jury Selection process (selecting a jury could take 3-4 days alone and these ordinary citizens are watching this decrepit person appearing to have one foot in the grave as the result of being injured by that dastardly employer). So you have to think to yourself about how YOUR neighbor would feel about taking 2 weeks off from work not getting paid, and sitting through this trial.