



Settlement Training

By Donald Barthel, Esq.

Law Offices of Bradford & Barthel, LLP



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



Certificates

Sent via email

PowerPoint & Video

<https://bradfordbarthel.com/training/>

Blog Articles

bradfordbarthel.blogspot.com/

Next Live Webinar – 11/18/26

2026 Legislative & Case Law Update



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



NEW PODCAST!!!



LISTEN ON  Spotify

Listen on
 amazon music

Listen on
 Apple Podcasts



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



3

Refer A Rating

B&B AMA Analysis & Rating Department

Rating referrals: ratings@bradfordbarthel.com

Phone: [\(916\) 569-0790](tel:(916)569-0790)

Rating specialists make certain AMA Guides is properly applied and ensure our clients pay only the permanent disability owed.



Alex Sadek
Rating Specialist
asadek@bradfordbarthel.com



David Roman
Rating Specialist
droman@bradfordbarthel.com



Kimberly Wagner
EP, Managing Partner
kwagner@bradfordbarthel.com



Don Bathel
Founding Partner
dbathel@bradfordbarthel.com



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



4

JOIN OUR TEAM

We are **HIRING!**



Positions Available:

- ❖ Workers' Compensation Defense Attorneys
- ❖ Hearing Representatives

Apply today at:

<https://bradfordbarthel.isolvedhire.com/jobs/>



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



5

Meet our Team

Thomas Bradford , Esq.
Founding Partner
tbarthel@bradfordbarthel.com



Donald Barthel, Esq.
Founding Partner
dbradford@bradfordbarthel.com



Mark Fletcher
Firm Executive Managing Partner
msfletcher@bradfordbarthel.com



Tahmeena Ahmed
Chief Marketing Officer,
Executive Managing Partner, Client Relations
tahmed@bradfordbarthel.com



Fariba Jafary
Mng. Partner, Recruitment, Hiring &
Develop., Chief Diversity Officer, Mng. Atty
fjafary@bradfordbarthel.com



Louis Larres
Director of the Appellate Division
llarres@bradfordbarthel.com



Amir Adil
Managing Partner, Business Research,
Development & Sustainability
aadil@bradfordbarthel.com



Jan Metheny
Exec. Mng. Partner, Atty Training,
Development & Procedures, Managing Atty



Alec Bradford
Managing Attorney
abraddford@bradfordbarthel.com



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



6

Our Team Today

Donald Barthel, Esq.
Founding Partner
 dbarthel@bradfordbarthel.com



Alec Bradford, Esq.
Equity Partner, Managing Attorney
B&B San Diego
 tbradford@bradfordbarthel.com



Tammy Welty
Director, Training and Communications
 twelty@bradfordbarthel.com



Tahmeena Ahmed
Chief Marketing Officer,
Executive Managing Partner, Client Relations
 tahmed@bradfordbarthel.com



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
 New File Referrals: edocs@bradfordbarthel.com



7

Today we will discuss



1. C&R's (and those other things)
2. Settling lots of money
3. Psychological Tactics
4. Not feeling sorry for applicant
 (Can you remember that one?)...
 All in under 12 hours



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
 New File Referrals: edocs@bradfordbarthel.com



8

What Are You Getting Into?



The Art of the Deal:

Stips, C&Rs, and the Fine Print

aka

Search for a Number Everyone Can Live With



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



9

Lit Framework & Risk

❖ **Philos.:** Shift to precise, statute/reg/case law



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



10

Select Best Settlement Vehicle

Strategy Over Habit

- ❖ **Choose:** which aligns w/long-term risk goals
- ❖ **Avoid Default:** Don't allow habits or AA wishes to dictate
- ❖ **2-ish Options:** C&R (70-80%)
- ❖ **Stips.** (under 25%)
- ❖ **Trial** = 3-5%



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



11

Why ONLY 3-5%



- ❖ **Admin Pressure:** WCJs view MSC as mandatory! (Go figure! What does “M” stand for?) Most disputes resolved
- ❖ **WCJ Input:** (a) can easily interpret MLs, (b) face limited legal issues, (c) avoid unpredictable juries
- ❖ **Cost & Delay:** Expedited = best for ALL



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



12

C&R

For Finality



- ❖ **Statutory:** lump-sum buyout; all past/present/fut. indemnity, med
- ❖ **Clean Break:** closes all, immunizing from fut. claims for injury(s) covered (draft carefully)
- ❖ **Strategic:** EE leaves ER, Fut Tx/, TD, PD mutually assessed/resolved “accurately”



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



13

Stip'd F&A

❖ Structured Indemnity, Open Med

- ❖ **Typical Mechanism:** resolves PD, leaves fut. med open (UR/IMR)
- ❖ **Common:**
 - ✓ awards PD
- ✓ **Fut. TX.** = open (UR/IMR)
 - ✓ many others; but not all (otherwise = C&R)



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



14

NOT USELESS: TD owed, PD, Tx (UR/IMR)
fees, liens

CAN “stip” to accepted body parts?!??



ABSOLUTELY



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



15

Defines for WCAB what is revolved

- ❖ Prevents dispute re whether Tx or disability involves part falling w/in award
- ❖ Remember: name accepted part narrowly, w/specificity
- ❖ Too broad = sweeps in disputed parts/conditions
- ❖ Stip'ing part doesn't auto. = every dx/symptom assoc. w/it



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



16

Reopen Why I HATE Stip'd F&A

If worsens, Pet. to Reopen w/in 5 yrs from DOI

=

more benes, higher PD



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



17

LC 5410 =



- ❖ AA doesn't calendar 5 yrs = malpractice
- ❖ Goal: irrevocable liability cutoff = C&R



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



18

Dr. Depo

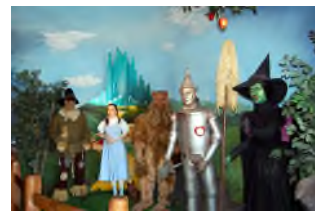
=

Unmasking the Wizard

Pullback curtain to reveal... 10-min. exam & quick chat

How is AME to live on \$2,720.25 for 2-3 hrs of back breaking report creation that:

- 1) is timely - NOT!!!
- 2) never requires a supp. - NOT!!!
- 3) never requires a depo - NOT!!!



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



19

Costly AME depo scheduled?

- ❖ SDT doctor files
- ❖ AMA analysis performed?
- ❖ Ask, “Why use AME?”

1. Who is more accurate
2. Who is “your” W
3. Who gets a bonus if you fail (split baby...at best)



“AME Trap (aka Why Agreed Medical Examiners Make Me Disagreeable)”



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



20

SDT PTP/QME/AME file pre-depo

WHY?

- 1) Why not? Fits lit budget
- 2) Doctor "Teaching" IW?
- 3) Doctor misapplying Guides? (Epworth 80-2% - Google, no AI)
- 4) Doctor charging client & Uncle Sam = ?
- 5) Depo prep fee? (5 sheets, 2 hours!?!?)
- 6) Pre-depo: "Surprise! More reports! 5 mins to review
Big DA bill?
Trial prep
2nd place?

Doctor depo prep (pivotal, hide the ball, chess)



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



21

- ❖ **QME:** ~\$1,500 to \$2,500+
- ❖ **QME Depo / Ct Rptr:** ~\$1,000 to \$2,000
- ❖ **LC § 5710:** ~\$1,000 to \$1,500 (not doctor!)
- ❖ **DA:** ~\$2,500 to \$5,000+ (prep/appeal
MSC, Trial, post-trial briefs)
- ❖ **Total:** \$6,000 – \$11,000+



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



22

Speaking of Depos....

We know LC 5710 too well

Usually most important conversation of file

WHY?!!



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



23

Jackpot

C&R at depo (before, during, allegedly after)

- ❖ All parties present
- ❖ May not happen again for months/yr

Attend with

- (1) C&R
- (2) Settlement Ax
- (3) LC 5710 Ax



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



24

Why IW, AA settlement at depo?

Both sides: eliminate further depositions, ML exams/reports, hearings, trial

❖ Money loser for AA



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



25

Fast cash

Rent, Christmas, Bday, 3rd strike

Real non-aoe/coe = expensive

- ❖ Control financial future
- ❖ Ever had a 3rd Striker?
- ❖ Does it matter?



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



26

They know something you don't



= may find out after LOTS of digging...
...might not

What's it worth to find out?

- ❖ Embarrassing skeletons (esp psych)(W/H,H/W)



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



27

Value of Depo Settlement?

- ❖ Immediately improve finances (both)
- ❖ Avoid additional lit.
- ❖ You've done hundreds, them = 1-2
- ❖ Fear: reducing uncertainty unknown depo questions
- ❖ May disabuse inflated expectations
- ❖ Consider initiating talks alone with AA (They will agree. Promise!)
- ❖ Stip/Neg Dep Fee/hrs?! (Excellent Card to play)



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



28

Avoid add't'l questioning

Uncomfortable or intrusive ("can he ask me that?")

Don't forget: Pet to Compel



SENDS 2 message

- (a) More questions to follow
- (b) Expensive lit process



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



29

Escape scary, frustrating, unfamiliar WC system

- ❖ Teach weaknesses in their claim, w/or w/out AA's help
- ❖ Good depo reveals evidence problems re cause, credibility, med & job hx, LC 4663/LC 4664, extent of PD
- ❖ Avoiding unfavorable med. evals.



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



30

Obtaining certainty re PD, etc

- ❖ Avoid substantial evidentiary disputes (100% vs take-nothing)
- ❖ Avoid discomfort at work (awkwardness, discomfort not = 132a)
- ❖ Starting a new chapter: finance, ed, relocation, diff. occ, other personal plans = money helps



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



31

Skip Headache...

State mandated forms, AND

Delete AA's voicemail, AND

Stop calculating reserves, updating ax, AND

Toss out AMA Guides

ALL for... (wait for it)

Getting Approved (Huh?)



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



32

Getting C&R Approved

- ❖ WCJ reviews adequacy
- ❖ Won't approve lowballing (esp pro per)
- ❖ "Nuisance" C&R approval threshold disputes, such as:
 - ❖ AOE/COE denied



Parties agree Expeditious + Economical = Win - Win
 AA/Def avoid eating time, wasting time: fruitless lit



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
 New File Referrals: edocs@bradfordbarthel.com



33

Est. legally supportable reason

"Settlement" not "capitulate"

=

furnish for WCJ to eval. adequacy

- ❖ Reasons - reasonably supportable, not proven



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
 New File Referrals: edocs@bradfordbarthel.com



34

Settlement

- ✓ Know your facts,
- ✓ Know your WCJ
- ✓ Walk-through (if possible)



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



35

How Much Evidence Is Necessary?



1. Substantial med not req'd: stip to facts, resolve disputed w/out ML (Maybe!)
2. Record = sufficient info that WCJ may indep. eval.
3. Amt of info needed: varies (claim W testimony vs. intox. defense)



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



36



4. Desire to avoid lit = insufficient
5. Explain/justify case diminished value
6. WCJ can't auto. req. eval. More needed?
Follow procedures, including evidentiary hearing



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



37

What Evidence Shld DA Provide?



When neg'ing a C&R at depos, develop record addressing:

Evidence

Claim denial

Legal defs

Existing med records

Relevance to adequacy

Est's genuine comp. dispute

Est's uncertainty re entitlement

Id's nature & potential extent of injury



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



38

IW's Testimony Clarifies Allegations



PD est.	Est. potential indemnity
Fut med	Est value of closing med. benes
Settlement rationale	Explains why = reasonable
IW's informed consent	Proves settle.= voluntary, in IW's interests



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



39

Getting to “Yes” Negotiation Agmt. w/o Giving In

Principled Nego. - focuses on mut. gains,
positional bargain.



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



40

Four Core Principles

1. Separate People from Problem



Concept: Human emotions, perceptions, ego

=

entangled w/substantive issues
(turn neg. into personal battles)



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



41



Action

Treat AA as partner solving shared problem

- ❖ NOT adversary
- ❖ Address emotions explicitly
- ❖ Listen actively
- ❖ Separate relationship from underlying facts (or not)



Law Offices of Bradford & Barthel, LLP – bradfordbarthel.com
New File Referrals: edocs@bradfordbarthel.com



42