Social Security NEWS

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Letter From the Chair

Hon. Larry Auerbach

As you likely know, the Social Security Law Section of the FBA is unique in that our membership includes judges, claimant's attorneys, and others involved in adjudication of Social Security issues. For this reason we can—indeed, we must—take a broader perspective. Our primary mission continues to be serving as advocates for a fair, effective, fully-funded adjudicatory system. We are fortunate to have an excellent reputation with Congress and with SSA. Nevertheless, it is a simple fact that, if we can grow our membership, our voice will be more effective. Most, if not all, of you know and work with many potential members who do not even know that we exist. Please send these people a link to the newsletter and tell them about the FBA and about this section. Your efforts can make our voice stronger.

In order to be effective and to ensure that we have a cross-section of members, we have formalized and expanded our board of directors. The list is being added to our website. If you have an interest in participating in this way, please send me an e-mail: larryauerbach@earthlink.net.

This newsletter can be a great service to our members. In order for it to be as effective as possible, we need members to provide articles. Do you have ideas about how to prepare your case to improve your client's chance of success, how to examine expert witnesses, how to frame a residual functional capacity, how to handle favorable/unfavorable consultative examiner opinions, or other topics? Please share your experience and views with others through the newsletter. Articles or proposals can be sent the editor of this newsletter, Judge Jim Fraiser: Jim.Fraiser@ssa.gov.

Hon. Larry Auerbach

We are reinstituting our Bench/Bar CLE programs. The first one is now scheduled to be in Cleveland, Ohio, on the morning of Oct. 21. If you live in the Cleveland area, please join us. We are working on scheduling another in Charleston, S.C. If there is an interest in holding a session where you live, let me know. We will work cooperatively with you or the local FBA chapter to put on a session.

As always, I welcome your input and ideas about how to make this section more effective in meeting the needs of our members.

Call for Submissions:
Please contact jim.fraiser@ssa.gov to discuss any potential articles or submissions.

ALSO IN THIS ISSUE

Opening and Closing Statements

Hon. Larry Auerbach

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While all judges do not ask for opening or closing statements, many do. Unless you are certain the judge will not allow opening and/or closing statements, you should always be prepared to give them. Even if the judge does not ask for such statements, being prepared will help you focus your case.

If the judge asks for an open or close, do not waive this. This is your chance to tell the judge why your client should win. Why would you pass that up? What if the judge does not offer a chance to open or close? There may be cases in which you feel that a brief opening would really help you show the judge why your client wins. What should you do? The answer is obvious: You ask: "Your honor, I think it may be helpful if I may be permitted brief opening remarks."

If you cannot briefly and specifically tell the judge why your client should win, then you need to know your case or the applicable law better. This may sound harsh, but it is, nevertheless, true. I recommend that you begin your opening or closing with one or two simple declarative sentences. Examples:

1. Mr. Former Worker's degenerative disk disease limits him to sedentary work at most. Considering his age and that his former work as a barroom bouncer is heavy work without transferable skills, he should be found disabled under grid rule 201.01.
2. Treatment notes of Dr. I. Kanbe Bought in Exhibits 2F and 3F show that claimant's ejection fraction has been below 30% since June 6, 2009, and that he has been unable to complete an exercise test of 5 METS. He therefore meets Listing 4.04.

Note that the examples are quite specific. If you argue that a claimant meets a listing without being specific as to which listing is met and why, you will accomplish nothing other than hiding your better argument and annoying the judge. It is highly unlikely that your client actually meetslListing for each of several impairments. If he does not, do not assert that he does. Doing so will just undermine your credibility and distract the judge from your better arguments.

At this point, some of you are wondering: what about the situation where you believe the record does not support your client's allegation of disability? You may entertain such doubts before the hearing and after, and you may have candidly discussed them with your client. However, your job and your ethical duty is to zealously represent your client. Any doubts about the merits of your case need to wait in the lobby while the hearing proceeds. I am absolutely not suggesting that you ever mislead a judge. What I am strongly suggesting is that you emphasize the parts of the truth which will most benefit your client, e.g. :

> Ms. Client will testify (testified) to pain which is so severe that she would be unable to maintain concentration, pace and persistence so as to be able to reliably do even unskilled work. While the MRI of her cervical spine was negative, Dr. Quack's treatment notes at Exhibit 7F, pages 3, 6, 9 and 98 indicate that she was likely suffering from chronic pain syndrome. This medical evidence fully supports her subjective complaints of pain.

Whether in an opening or closing, never lose sight of your objective. Too often, representatives use their openings to list every diagnosis or even every treatment note. This is not just unhelpful. It detracts from anything which you say which tells the judge why you win. Some impairments should be omitted so you can focus your and the judge's attention on issues which can win your case. For example: hyperlipidemia (high cholesterol) and hypertension put people at risk of heart attacks, congestive heart failure, etc. If the claimant has not developed such conditions or other symptoms which are documented in the medical evidence, they are of little or no relevance to the outcome—leave them out. Diabetes can cause great harm, but if there is no medical evidence of retinopathy, neuropathy, nephropathy, or other symptoms, any argument you make will be unconvincing and will distract from the credibility of arguments about impairments which actually cause limitations.

Medical treatment notes often report conditions that you may not be familiar with. Please do not

STATEMENTS CONTINUED ON PAGE 8

Case Preparation in Social Security Cases

Hon. Jim Fraiser

Hon. Jim Fraiser

Although representing a claimant before an administrative law judge in a Social Security disability case does not require the same preparation involved in handling a federal tort claims act or civil rights litigation case (i.e., there is no discovery, no depositions, pleadings are not complicated, case law research is rarely required, and pretrial motion practice is relatively limited), the ethical obligation to vigorously represent the client is no different. To meet those obligations, attorneys should take certain preparatory steps to insure that they provide their clients with the same degree of competence that they would offer in any other case. After all, their client's health, finances, and future are at stake in a disability hearing. I served as a claimant's attorney for many years in private practice, and found that preparation more often than not made the difference in a winning and losing effort.

Meeting With The Client

Failure to spend sufficient time with the client prior to a hearing is the cause of failure in many cases. These meetings should serve several purposes, including:

- acquiring information about the claimant's work history, assets, and impairments and their effect on functioning;
- discerning the claimant's treatment history, the names, addresses and phone numbers of treating physicians, nurses, psychologists, etc.,
- obtaining essential waivers;
- copying available medical records;
- discovering the existence and addresses of potential lay witnesses; and
- preparing the claimant for the hearing—including direct testimony and examination by the judge.

Spending sufficient time with the client to gain his or her trust and confidence is essential, as are going over testimony relevant to key elements of proof and preparing the client for examination by the ALJ. Suffice it to say, having a paralegal or secretary perform an intake and meeting with the claimant ten minutes prior to the hearing does not satisfy the ethical obligations attendant to adequately representing a client at a disability hearing. Generating reliable info checksheets for intakes and promulgating hearing scripts that include likely questions asked by the court, which apply to both physical and mental cases, are helpful. Interviewing family members and former employers not only helps build a case by producing helpful witnesses, this also informs the client that you are vigorously pursuing favorable results in the case.

Meeting With Treating Medical Providers

The tired old excuse that the provider would not produce medical records or fill out a medical source statement in a timely fashion is as lame as the proverbial "I was only following orders" or "I ran into traffic on the way to court." If you approach medical providers the right way, they will usually respond in kind:

- contact them early, and if necessary, often, always using a professional demeanor;
- inquire about acceptable waivers and file them immediately, not a week prior to the hearing;
- request copies of medical records early on, and discuss the medical source statement with them and send them one to fill out immediately thereafter, along with a reminder copy of their relevant notes. If they will review them, provide helpful reports from other doctors for their review;
- explain how time is of the essence in these cases, and that their patient's future is riding on their prompt assistance; and
- send a letter explaining the disability process to them—that the court (by force of regulation) relies heavily upon their opinion in making its determination, but that their bald assertion of disability means little without support in the medical record and corresponding findings related to statements of limited functioning.

Assure the provider that you want only the truth; that you desire an honest statement of your client's functioning, avoiding gross overstatement as well as unhelpful understatement

CASE PREP CONTINUED ON PAGE 7

The Lawyer and Jurist in Literature, Humor, and History

Hon. Jim Frasier

Hon. Jim Frasier

"All work makes Jack a dull boy" is an axiom we have heard since childhood, and I offer these excerpts from my novels and nonfiction books as a balm for our oft-time difficult and occasionally painful struggles for justice. Any submissions for this column from the bench or bar would be greatly appreciated for use in future issues.

From *Mississippi River Country Tales* (Pelican Publishing Co.: New Orleans 2000)

To refuse a dueling challenge was considered and exceedingly cowardly act in the 19th Century Old Southwest. As south Mississippi lawyer and orator Seargent Smith Prentiss explained to a northern relative, if a man refuses a challenge, "his life will be rendered valueless to him both in his eyes and those of the community." Nevertheless, era Mississippi Governor Alexander G. McNutt earned the people's affection for having the courage to brag about his well-known cowardice. When informed that a challenge was issued to him during a political speech, McNutt spontaneously informed the crows that, "I understand that General Quitman says when he meets me he intends to whip me. Now I tell him, at this far-off distance, if he whips me it will be because he outruns me, for I have a great horror of the barbarous practice of personal violence.

Jokes and Witticisms

A Mississippi Territory attorney, circa 1800, much disposed toward drinking, once moved to dismiss his own case, but did so in the commonly held vernacular of the times, which referenced a sinking ship:

Judge: What is your pleasure, counselor?

Lawyer: If it please the court, I will "take water."

Judge: Well, if you do, you will astonish your stomach most mightily.

Another judge attempted to show a persistent lawyer his place:

Judge: You have been practicing before this court long enough to know that when this court has once decided a question, the propriety of its decision can only be reviewed by the High Court of Errors and Appeals. Take your seat, sir!

Lawyer: If your honor please, far be it for me to impugn in the slightest degree the wisdom and propriety of your honor's decision! I merely designed to read a few lines from the volume I hold in my hand, that your honor might perceive how profoundly ignorant Sir William Blackstone was upon this subject.

During the politically charged 1952 battle over prohibition in the Mississippi legislature, Corinth lawyer, Alcorn County representative, and Ole Miss law professor N.S. "Soggy" Sweat Jr. made the following speech during a time when Mississippi was "dry" but the state nevertheless collected a profitable tax on illegal liquor:

My friends, I had not intended to discuss this controversial subject at this particular time. However, I want you to know that I do not shun controversy. On the contrary, I will take a stand on any issue at anytime, regardless of how fraught with controversy it might be. You have asked me how I feel about whiskey. All right, here is how I feel about whiskey…

If when you say "whiskey" you mean the devil's brew, the poison scourge, the bloody monster, that defiles innocence, dethrones reason, destroys the home, creates misery and poverty, yea, literally takes the bread from mouths of little children; if you mean the evil drink that topples the Christian man and woman from the pinnacle of righteousness, gracious living into the bottomless pit of degradation, and despair, and shame and helplessness, and hopelessness, then certainly I am against it.

But, if when you say "whiskey' you mean the oil of conversation, the philosophic wine, the ale that is consumed when good fellows get together, that puts a song in their hearts, and laughter on their lips, and the warm glow of contentment in their eyes; if you mean Christmas cheer; if you mean the stimulating drink that puts the spring in the old gentleman's step on a frosty, crispy morning; if you mean the drink which enables a man to magnify his joy, and his happiness, and to forget, if only for a little while, life's great tragedies and heartaches and sorrows; if you mean that drink, the sale of which pours into our treasuries untold millions of dollars, which are used to provide tender care for our little crippled children, our blind, our deaf, our dumb, our pitiful

aged and infirm; to build highways and hospitals and schools, then certainly I am for it.

This is my stand. I will not retreat from it. I will not compromise.

From *The Garden District of New Orleans*, (University Press of Mississippi: Jackson, due out in 2011)

During Reconstruction in New Orleans, Gen. Benjamin Butler appointed a fellow Massachusetts native, Maj. Joseph M. Bell, as provost judge, and this handsome, good-natured jurist handed down justice with a quality of wit comparable to that of the Union soldier and future Supreme Court justice Oliver Wendell Holmes.

According to historian Joy J. Jackson, after acquainting himself with the French, Spanish, Louisiana, and slave laws of his new jurisdiction, Judge Bell overruled a defense attorney's objection to allowing a black man to testify against the lawyer's white client in opposition to Louisiana law, by asking, "Has Louisiana gone out of the Union?" When the lawyer replied in the affirmative, Bell declared, "Then she took her laws with her," and swore in the witness. Bell's most unusual case occurred outside his court. Where a landlord had seized a female slave's property to pay for his loss when another tenant absconded without paying rent, Bell sought out the landlord and asked for an explanation. The landlord informed him that Louisiana law allowed him to seize property if a boarder had not paid rent, and it did not specify that the seized property must belong to the absconder. Thinking on his feet, Bell informed the proprietor that another law required him to have a written permit from the woman's master to rent her a room. Faced with paying a substantial fine or returning the woman's meager property, the landlord chose the latter option.

Bell's judicial approach was apparently contagious, as his occasional substitute, Judge J. Burnham Kinsman, meted out a similar style of justice. When he discovered that a woman who had been sentenced to prison for hiding weapons had been convicted upon information provided by a lawyer discontented with the woman's refusal to give him two hundred dollars to bail her husband out of jail, Judge Kinsman revoked the woman's sentence and gave the lawyer a one-month jail sentence for acting maliciously. Perhaps George Washington Cable had been mistaken when he had earlier said, with reference to the prospect of Union occupation of New Orleans, that "[t]here was little to laugh at."

***Shadow Seed: A Novel* (Black Belt Press: Montgomery, Ala., 1997)**

John Clements phoned the District Attorney.

"Willard?"

"Yes, John? What's up?"

"What do you mean, 'what's up', Willard? Why didn't you tell me that the cops bungled my client Daulks' arrest?"

"Calm down, John. Everything's under control."

"Under control? Roosevelt Daulks just phoned and threatened to kill me! Why didn't you tell me you and the cops screwed up the arrest?"

"How did you know we … I mean, we haven't screwed up anything. We simply haven't found him yet, is all."

"Oh, no? Then how did he know I turned him because of death threats against witnesses?"

"You're not suggesting that I told them, are you?"

"You sent the cops to his mother's house, didn't you?"

"Of course I did. That's where the crazy #*#@* lives."

"And the cops didn't wait to see if he was home before the bumbled through the front door?"

"Of course they did. He must have slipped out a rear window."

Clements exhaled angrily. "Let me ask you something, Willard. Are we dealing with the Jackson Police Department or the Keystone Cops? Haven't they heard of surrounding the place first, or are modern police tactics too complicated for them?"

Willard Montjoy cleared his throat. "Calm down, John. We had no reason to believe Daulks knew we were coming. Unless someone … Unless you told him."

Clements laughed bitterly. "That's it, Willard. You're absolutely right, as usual. I told Daulks that the cops were coming. I also told him that I'd turned him in, felt bad about it, and wanted to warn him so he could give 'em the slip, come by my house, and scramble my brains with a skillet like he did to that old lady he's charged with murdering."

"Don't worry, John," Montjoy murmured reassuringly. "We'll get. We got him before, didn't we?"

"Sure, Willard, you got him before. After he gunned down a little girl and brained an old woman. And you're telling me not to worry?"

"Calm down, John. Lighten up, huh? Don't you remember what Bear Bryant said about his great linebacker, Leroy Jordan?"

"What the hell are you talking about, Willard?"

"When asked if he thought Alabama could handle some hotshot tailback in a bowl game, the Bear asked the reporter if the back would stay between the sidelines. When told "yes," the Bear said, "then Leroy will get him." Montjoy laughed, none too convincingly. "You hear me, John? If Daulks stays in Jackson, we'll get him!"

"I'd like to get you, Willard."

"Look, we'll keep an eye on your house, John. We've been watching your office all day. There's a unit across the street right now. Feel safer now?"

"Much like Daulks' residence, my office also has rear windows. In a word, Willard, no."

"Well, that's the best we can do for now. I'll phone you when we get him."

"Like you phoned me when you missed him the first time?"

"Hey, I dropped the ball on that one. I admit it. I'm sorry, John."

LITERATURE CONTINUED ON PAGE 7

Fee Petitions and Overpayment Cases

Hon. Jim Fraiser

Hon. Jim Fraiser

As if Social Security law was not complex enough to the general practitioner, there are several aspects that frequent practitioners find as arcane as the deepest, darkest nether regions of the IRS tax code. Two of these aspects concern fee petitions and overpayment cases, and they are the subject of this month's editorial comments.

Fee Petitions

As you know, most fees are paid from past due benefits via fee agreements that limit the fee to a specific percentage of the past due benefits recovered (25%) not to exceed a specific amount ($6,000). However, in cases where the attorney or representative (hereinafter, "rep") wishes to obtain a fee in excess of $7,000 they may file a petition. The ALJ/SSA jurisdiction is up to $10,000, but the regional chief judge may approve higher amounts, of which there is no statutory limit. Petitions may be filed when

- there is no valid fee agreement or fee agreement approval; or,
- an erroneously approved fee agreement has been disapproved; and
- the claimant signs the petition or received a copy from the rep, ALJ or SSA office.

There is no time limit to file fee petitions although funds may have been released after 60 days unless the rep filed a petition or a letter of intention to file one. Significantly, fees may be authorized even if no past due benefits were awarded so long as the fee agreement was not contingent upon a favorable decision. In other words, this allows reps to take "long shot" cases where the claimant agrees to the prospect of fee payment even where benefits are denied. 20 C.F.R. Secs. 404.1720, 416.1520 & 416.1525.

The ALJ will consider several factors in determining the amount of the petitioning rep's fee, including (a) the purpose of the program, i.e., Title II: to provide a measure of economic security (20 CFR 404.1725); Title XVI: to assure minimum level of income for individuals who do not have sufficient income and resources to maintain a standard of living at the minimum income level (20 CFR 416.1525) [that's Claimants, not Reps, I hasten to add]; (b) services provided; (c) complexity of the case; (d) level and skill of competence required; (e) time spent on the case; (f) results achieved; (g) level in administrative process (i.e., hearing, appeal, etc.); (g) amount requested. The regional chief ALJ is the reviewing official in cases regarding the approval of a fee agreement and the amount authorized by an ALJ. Hopefully, these provisions will further accomplish the same goals that contingency fee agreements accomplish in other areas of the law.

Overpayment Cases

Situations arise where the agency alleges that claimants have received benefit payments that they were not entitled to retain, as when they possessed too many assets to receive Title XVI benefits, or where they returned to work and became ineligible for Title II or XVI benefits. In such cases, overpayment is alleged by the agency, claimants must answer the allegations, and they may seek waiver of repayment of overpaid amounts through waiver of recovery. The first issue, of course, is whether an overpayment was actually made, but assuming those facts, the primary issue then becomes one of waiver of recovery.

Waiver of recovery is appropriate when an overpaid person (A) is without fault (20 CFR 404.507 & 416.552) and (B) recovery would be against equity and good conscience (20 CFR 404.509 & 416.554) or (C) defeat the purpose of Title II or Title XVI (20 CFR 404.508 & 416.553, respectively).

"(A) Without fault" is where the claimant had no fault in causing or accepting the overpayment. In other words, if claimants should have reasonably known that they were being overpaid (because they were making $5,000 a month at a new job), it is immaterial whether they were without fault in causing the overpayment (e.g., where an SSA clerk hit the wrong button and issued years of monthly checks). See 20 CFR 404.507 & 416.552). Without fault is a condition precedent to waiver, and once that hurdle is crossed, the next issue arises.

"(B) Against equity and good conscience" occurs when (1) the claimant, relying on benefits or notice of pending benefits, relinquished a valuable right or changed position for the worse (e.g., told his mother to forego the monthly charity payments or purchased a house); or, (2) a con-

tingently liable beneficiary was living in a separate household from the overpaid person at the time of the overpayment and did not receive the overpayment, (e.g., the ex-husband was living elsewhere from the ex-wife and never received his part of the overpayment). See (20 CFR 404.509 & 416.554). Upon a showing of without fault but failing proof of against equity, the final issue arises.

"(C) Defeat the purpose" means to deprive one of income required for ordinary and necessary living expenses (20 CFR 404.509 & 416.553). Recovery will defeat the purpose of Title II when: (1) the claimant had none of the overpayment funds in his possession when notified of the overpayment (i.e., had already spent them on groceries, bills, etc.); and (2) the claimant receives cash public assistance or needs substantially all current income to meet ordinary and necessary living expenses and recovery would reduce total assets (house value, car value, bank accounts, IRAs, life insurance policy values, income, etc.) below set levels (a) $3,000 for a person without dependents; and (b) $5,000 for a person with one dependent, plus $600 for each additional dependant.

Recovery will defeat the purpose of Title XVI for the reasons given above, and the reasons set forth in Section (b) of 416.553, which require resort to additional regulations to determine if these apply at all.

Many reps will not take overpayment cases because no back due benefits are available and they do not understand that key defenses to the action are contained in the regulations. However, with a better understanding of overpayment regulations, and the knowledge that fee petitions exist, perhaps more reps will undertake to handle these cases for worthy claimants.

CASE PREP CONTINUED FROM PAGE 3

of disability. This way you gain their trust as an ethical, hard-working, dedicated professional that they would like to work with on behalf of their patient.

Obtaining Other Evidence

Other evidence that may be helpful includes

- signed statements or letters from family members indicating impairments and resulting limitation on functioning and activities of daily living, pain, and the dates of injury or treatment;
- statements from former employers about the claimant's past work record prior to and after the onset of injury or disease;
- independent psychological and physical examinations (so long as these are credible and supported by a legitimate examination and understanding of the client's history and medical treatment);
- other relevant information pertaining to assets (relevant to eligibility for Title 16 benefits), wages subsequent to the alleged date of disability (relevant to the issues of SGA and functioning), worker's comp findings and VA disability determinations (relevant to Title 16 eligibility and disability issues).

Provide this information for inclusion in the court's exhibit file at your earliest convenience.

Preparing Yourself

You can improve your case and your standing with the client and the court by

- being prepared to fully explain how your client meets or equals all the elements of any Listing;
- filing a short but concise legal brief that includes references to numbered exhibits and demonstrates how those exhibits prove disability;
- filing amended onset of disability in the brief where appropriate; and
- preparing brief and concise opening and closing statements in the event that these are requested by the court or you feel them essential to explaining your case.

The aforementioned efforts on behalf of clients facing disability hearings will go a long way toward meeting your ethical requirements of adequately representing clients in those hearings, and demonstrated to the client and the court that you have sufficiently invested yourself in your client's case.

LITERATURE CONTINUED FROM PAGE 5

"You're damn right you dropped the ball! You fumbled it real good and I'm the one who nearly got sacked."

"We'll have Daulks on ice by the weekend, John," the D.A. sniffed, obviously losing interest in the conversation. Hey … I gotta' go. My jury's coming back in. See you later, John. Okay?"

"I hope so, Willard."

"Oh come on, John. Don't be such a wimp. You own a gun, don't you?"

"No, I don't. Absurd as it seems now, I've always counted on the police for my protection."

"Well then, buy a gun. Or quit representing crooks!"

Clements stared blankly at the telephone as the disconnect tone buzzed in his ear.

STATEMENTS CONTINUED FROM PAGE 2

use these terms in your opening or closing unless you fully understand them, what symptoms they cause and their relevance to your client's condition. For example, your client has hemochromatosis. How does that limit her? If it is controlled, it may not cause any limitation. Kidney failure—does that make my client disabled? It depends. Is it acute due to dehydration and thus temporary, or is it chronic Stage IV and thus likely disabling? You do not have to attend medical school to know these things. You probably only need to use Google, Yahoo, or something similar.

You also need to ask your client about her symptoms. (In case you had any doubt, telling a client what they are is not ethical.) You can then point out to the judge that condition X causes symptoms Y and Z and that your client has been reporting these symptoms to Dr. Maladroit. This prehearing work is discussed in more detail in the article in this issue on case preparation. I would simply add that arguing limitations which could exist or limitations due to medical terms you do not understand must be avoided. It violates your ethical obligations to the court and to your client.

Most of this article can be applied equally to opening or closing arguments. The obvious difference is that in the first, you are dealing with testimony you expect, while in the latter, it is testimony which has happened. In openings, do not promise what you do not have good reason to believe you will deliver.

Proper preparation will greatly reduce the number of surprises you have in testimony. It will not eliminate them. These surprises often need to be addressed in closing. Here are examples:

1. I had expected Ms. Truthful to tell you that she could no longer carry her Great Dane in one hand. Nevertheless, she testified that she does that daily. Her candor on this issue shows how honestly she has testified. This adds credibility to her testimony she believes that her Great Dane is directing her actions and speaking telepathically to her all day long.
2. Even if Your Honor finds that the medical evidence does not fully support Mr. Eggs Aggerate's testimony that he can only lift a fork once or twice per month, this in no way negates the medical evidence showing spinal nerve root compression and multiple unsuccessful efforts to alleviate his disabling pain.

To sum up: Be prepared to tell the judge why your client should win, and speak with specificity based on the most important facts and legal principals. Offer evidence supporting your argument. In your closing, briefly reiterate why you win and deal with any problems that occurred during your client's testimony.

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