

FIGHTING for JUSTICE



*Insights from
America's Premier
Personal Injury Attorneys*

featuring

SUSANNAH HALL-JUSTICE

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The information in this book is based on the professional and personal experience of the author and from myriad sources such as attorneys, laws and articles.

The opinions stated in this book are solely those of the author and nothing in this book should be considered as legal advice. The handling of an automobile accident claim is a complex matter and should be handled and/or reviewed by a licensed attorney in the state where the claim is to be made.

Keep in mind that the law is constantly changing. Although every effort has been made to assure the accuracy of the information in this book it is possible mistakes have been inadvertently made and to rely upon anything in this book could produce undesirable consequences.



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Introduction

The law can seem impossibly complicated sometimes. Most of us don't know how the law works or how lawyers go about using it. Our experience is limited to what we see on TV shows. We might have heard terms like "personal injury," "plaintiff," and "mediation," but we don't really know what they mean.

We don't bother to learn more because this mystery doesn't affect us in our everyday lives. That is, until it does. Then, a car crashes into us. A truck hits a loved one. A product malfunctions and leaves us permanently injured. When we are suddenly injured in a serious accident of any sort, we very quickly realize we need to understand the law, and right now.

- How do we find a lawyer?
- How do we know we've chosen the right one?
- Do we have a case?
- How do we get the medical help we need?
- What happens next?

These and more questions crop up, and in perhaps the worst moment of our lives, we realize we don't have answers. Or we didn't, until now.

Fighting for Justice is designed to work as a guide for all of us, to help us find access to those who can fight for us against those who harmed us.

Working with some of the most prestigious legal experts from around the country, we have assembled a diverse and useful set of opinions, advice, and guidelines to navigate these traumatic, tragic, stressful, and absolutely critical days, weeks, and months after your accident.

The lawyers in this book all have decades of experience fighting against some of the biggest companies in the largest industries to ensure victims are able to get fair compensation, closure, and justice.

This is particularly true of our senior expert, Ms. Susannah Hall-Justice. Ms. Hall-Justice has proven to be among the finest advocates for the injured in the country through her long career of successes against some of the most formidable odds. For more than 20 years, Ms. Hall-Justice has been representing injured people and their families around Indiana. In that time, she has also served on the Board of Governors for the Indiana Trial Lawyers Association and spoken at many of its seminars. She served as the president of the Tippecanoe County Bar Association from 2018 to 2019.

Assembled along with Ms. Hall-Justice are nine other attorneys who know precisely what *Fighting for Justice* takes in their state, region, and around the country.



We hope this book is a great help to those in their moment of distress and for those who simply want to be prepared, should that moment ever arise.

Thank you for reading,

Fighting for Justice



A Personal Injury Case from Start to Finish:

The Best and Worst Things to Do During It

By Susannah Hall-Justice

You have just been involved in a collision that was not your fault. You could be the driver or a passenger. After being in the hospital for a few hours, all you want to do is go home.

Obtaining treatment for your injuries promptly, and for as long as you need treatment, is one of the best things you can do. Failing to do that is one of the worst.

What will happen if you do not obtain treatment? The defendant's insurance adjuster and insurance defense attorney—

and the jury—will assume you were not injured as badly as you claim. Or they might say you would have recovered sooner if only you had sought medical treatment when you were supposed to. A defense attorney will say that “The plaintiff failed to mitigate his damages.” He will tell the adjuster or jury that you should be paid less money because of that.

Insurance adjusters also love to look for “gaps in medical treatment” and will use that as a justification to pay you less. People are often told that the doctor’s office will call them to schedule an appointment. If a doctor’s office is supposed to call you and doesn’t, call the doctor’s office.

Almost immediately after you get home from the hospital, you receive a call from the defendant’s insurance company. The man on the line wants to take a recorded statement. He tells you that he can’t determine whose fault the accident was until he has your statement. Know this: The insurance man is interested in asking selective questions while recording to put as much fault on you as possible. The most helpful thing you can do at this point is call our office and schedule an appointment. If you have your automobile insurance policy, then bring it with you. If you don’t, that is okay—we can still help you. Many people are upset that their own insurance policy might be used when the collision was the other person’s fault. Your insurance policy can answer the following questions:

- 1 Do you have Med-pay (medical payments coverage) that can be used to pay your co-pays or other medical bills?



- ② If the Defendant doesn't have insurance on their vehicle, then do you have "uninsured" coverage on your policy?
- ③ If the Defendant only has \$25,000.00 in insurance policy limits and you have damages that exceed that, do you have \$50,000.00 or more in "underinsured" insurance coverage? This situation has to be handled carefully or you will never even have the opportunity to obtain any part of the underinsured coverage.

How does the process of working together begin? You come to our office—or, if you are in the hospital, or physically unable to come to the office, we will come to you. We will discuss what has happened to you and how we can help you through this awful, perhaps life-changing event. You sign a written fee agreement so that we are able to notify the defendant's insurance company and others that we are representing you. Then we are able to gather information about the collision. If you have already taken photos of the vehicles involved in the collision, we will want to see them. It is not unusual for someone in our office to drive to a tow yard to take photos of the damage done to both vehicles. Automobiles are frequently hauled away from the tow yard within three days of a collision. The insurance companies do not want to pay the storage fees of the tow yard so they move the vehicles out as quickly as possible.

If your vehicle can be repaired, then it is normally taken to a shop for repairs. If your car is totaled, then we need to know how many miles were on the vehicle before the collision, as well as its condition just before you were



hit. We can communicate with the defendant's insurance company regarding the vehicle's value, but you must stay in contact with us so we are clear we have your agreement on a figure and signing over the title. It is also fine if you want to handle the valuation of your vehicle yourself. Just don't be chatting about the collision with the insurance adjuster.

Here is another best and worst: It is best to refrain from posting on social media about the collision or your injuries.

You can't delete what you have already posted, but don't post any more about it. The defense attorney will want to comb through every single thing you have posted. The attorney may be interested in the comments posted by your friends and family and how you responded to the comments. Someone stating that they "haven't seen you that drugged up in a long time" can leave the impression that you have had a drug problem, even if the person was simply referring to seeing you in the hospital for childbirth. Also limit who you speak to about your legal case. If you have questions or concerns about your case, talk to us. Other people you speak to can be questioned by a defense attorney months or years later. They may not remember what you said accurately. A defense attorney may also want to view text messages on your phone if they relate to the collision or your injuries. Limit the chances for misinterpretation by avoiding texting about the collision or your physical condition.

While obtaining compensation for your vehicle is important, it is even more important that you get the medical treatment you need. Schedule an appointment, or go to urgent care if your doctor doesn't have an available ap-



pointment that is soon enough. Each and every time you go to a medical provider, let us know. You need to let us know even if you go for a flu shot. This is important because we do not want to provide the defendant's insurance company with bills that are not related to your injuries from the collision. If your case is litigated in court, we must tell the defendant about all your medical treatment, even if it is not related to the collision, though that does not mean that it will be discussed in front of a jury.

How medical treatment should be paid for can be confusing.

The insurance policy of the automobile that you were in may have Med-pay that will help pay for treatment. You may have to rely on your own health insurance. You may not have health insurance. Talk to us about your options and inform us every time you receive a medical bill. Eventually, whoever pays your medical bills (Med-pay, private health insurance, Medicaid, or Medicare) will have to be repaid if we obtain money from the person who carelessly hurt you. Different Indiana laws apply to the different kinds of health insurance. Knowing what law to apply and how, seriously affects how much money you receive in the end. I have presented to the Indiana Trial Lawyers on this topic, and I continue to keep up to date on the law because I know how important it is for my clients.

When you are seriously injured you will likely receive many bills from many different businesses in connection with even a single hospital visit. The different businesses don't really care if the other businesses get paid, so it is important that you give us copies of every bill, and every insurance Explanation of Benefits (EOB) that you receive.



We actually request all the records and bills from the hospital or doctor's office, but they don't always provide every one. The bills have to be in a particular format for insurance companies, so what you see on your EOB is not the full picture. Medical records also have to be in a certain format if they are to be presented to a jury. When you provide us with copies of the bills you receive, it helps us verify we have all the necessary records and bills. If we don't know about a bill, we cannot make sure it gets paid. For this same reason (and so we are able to obtain your medical records more quickly), it helps to write down the places where you received treatment. Also include the name of the doctor or nurse practitioner who treated you. Include the date and what the problems were with your body that caused you to seek treatment. Sharing this with our office the day of or the day after your visit helps us understand how you are doing. If you aren't good at writing things down, then take a picture of something with the address on it and call us. Our having the exact addresses of the locations you received medical treatment along with the names of the medical providers will normally shorten the time it takes to obtain your records and bills. Note that I say *normally*. On one occasion a hospital kept insisting that our client did not receive medical treatment there, even though we had records showing she did. It took months to squeeze the bill we were seeking out of the hospital. Hospitals and medical providers can be frustratingly slow about providing their records and bills. Perseverance is key.

Make sure you provide your health insurance card when you visit medical providers. Be aware that some doctors are suspicious of people who have been involved in



collisions. Be truthful about your symptoms and their onset. If the doctor or physical therapist acts strangely, then go elsewhere. Doctors are under a lot of pressure these days to not overprescribe pain medication, so do not be surprised if you have a very limited supply of that kind of medication. Note that when one part of your body is giving you a lot of pain, you may forget to tell the doctor about the other parts of you that hurt or are not working like they should. You may need to write things down to ask the doctor so you don't forget. At your first appointment, ask your doctor if he has your medical records from the hospital. If your doctor recommends physical therapy and you have a follow-up appointment, ask the doctor's office if they have the records from the physical therapist before you have your follow-up appointment.

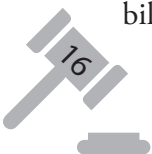
If you were in a vehicle as part of your work when you were hit by a careless driver, then your medical bills will be paid by your employer's Workers' Compensation insurance company. The insurance company usually has a case worker follow you to your appointments. The case worker is there to monitor your medical treatment. The sooner your medical treatment is finished, the happier the Workers' Compensation insurance company is, because then they can stop paying. If you have a permanent injury, then there will be a settlement related to that. Workers' Compensation law is different than other personal injury law. It does not take into account pain and suffering. The focus is on what work you are able to do or not do. If you are not able to return to work after a few weeks, they will also pay you two-thirds of your wages. Payments made for medical treatment and lost wages by the Workers' Compensation insurance company must be repaid if and when



we obtain compensation from the defendant's insurance company. The interaction between your Workers' Compensation case and your regular personal injury case can be complex. If Workers' Compensation is involved, your case will normally take longer to either settle or take to trial, because we want to be sure you receive the medical treatment that you need. The Workers' Compensation legal system is administrative. Frequently there are months between hearings. On the positive side, at least your medical treatment is being paid for. Additionally, if you are unable to return to work, at least you are receiving two-thirds of your pay.

In most cases there comes a point where the doctor hired by the Workers' Compensation insurance company says you are ready to return to work. Pay attention to how your body feels both before you return to work and after. If you think the Workers' Compensation doctor is mistaken about how well your body is able to function, then see a doctor that you choose. Find someone who is not on the payroll of the Workers' Compensation insurance company. You should also update the Workers' Compensation doctor if you have serious difficulties when you return to work. If you think you need further medical treatment to improve, then seek it right away. The defendant's insurance adjuster and insurance defense attorney view gaps in medical treatment as opportunities to say that you are to blame for your present medical condition.

When you have healed as much as possible from your injuries your medical condition is "quiescent." This means that we can now gather your final medical records and bills to make an offer of settlement to the Defendant's



insurance company. We need the records and bills in a certain format for the insurance company and for court. The insurance adjuster and insurance defense attorney will be going through your medical records with a fine-tooth comb looking for ways to avoid paying you money. Favorite lines of attack are that you did not do the physical therapy at home that you were supposed to do, that the kind of work you do is the real reason you are hurting, etc. Do your best to limit the opportunities for attack.

This brings us to another best and worst. One of the best things you can do is keep in touch with our office.

One of the worst things you can do is to not return phone calls, not reply to emails, or not reply to written letters. We cannot get you the compensation you deserve if you don't communicate with us. Unless you tell us where you received medical treatment, we can't obtain the records and bills. Unless you tell us that you have missed work, we won't be able to obtain records and witnesses. If you don't answer written questions (called "interrogatories") sent to us by the defense attorneys, you will no longer have a case. This means you will not be paid for your permanent injury. You will not be paid for all the time you spent going to doctors' offices, for all the painful time at physical therapy appointments, for missing work, and for feeling drained because you wake up at night with your body hurting. You will have kissed all that goodbye.

What are interrogatories? They are written questionnaires that defense attorneys send to my office for you to answer. Defense attorneys also send Requests for Production, which are requests for records. Records often include medical records from before the collision, your social me-



dia posts (including Instagram, Facebook, Snapchat or any other social media), and your text messages. Defense attorneys look very closely at old medical records. They want to see if you injured this part of your body before so that they can try to blame your present problems on your old injury. If a defendant aggravates a pre-existing injury, the defendant has to take responsibility for it under the law. Defense attorneys try to confuse juries about this law.

Give us copies of any paperwork related to the collision immediately! This is especially true if you have had an operation. One operation can generate numerous bills from separate legal entities, some of whom are rather slow in generating bills. Believe it or not, the bill from the hospital for using a room can be even more than the surgeon's bill! Please be sure to give us every bill that crosses your threshold.

Another example of important paperwork that we need to see is anything from Medicare. We will write to Medicare to tell them about the collision and ask Medicare to provide us with copies of any payments Medicare has made. Unfortunately, Medicare frequently responds by mailing a reply to our question to our client alone, leaving us in the dark. In order to settle your case, we must have documentation from Medicare about what Medicare has paid. You keeping us informed about everything you have received medical treatment for throughout your case, including care unrelated to your accident, will help us when we look at the payment ledgers from Medicare. We must handle repayment to Medicare correctly or risk being charged triple—yes, triple—what Medicare paid for your medical treatment.



Medical providers may send you questionnaires about whether your medical treatment is related to the collision. Bring any such documents to our office. Do not fill them out and mail them to the medical provider. Keep giving medical providers your health insurance information. The medical providers are interested in being paid top dollar for their services. They want to bill as much as possible to any Med-pay you have through your own insurance policy (or the driver's policy if you were a passenger).

Our knowledge of the law on reimbursing the different kinds of health insurance and medical providers means more money for you. I gave one of the first lectures on Indiana law on subrogation to the Indiana Trial Lawyers Association and continue to follow this subject closely because it is so important to my clients. Surprisingly, the law regarding reimbursing the health insurance of the employee of a public school or university can be different than the law on reimbursing an employee of a large manufacturing corporation. Other laws apply to Medicare, yet other laws apply to Medicaid. We have represented clients who are on both Medicare and Medicaid at the same time. Nowadays many people have insurance that they purchase themselves on the government exchange. It is vital that you let our office know every time your health insurance changes. We need to know this information so we can use the right law, along with our negotiating skills, to ensure you receive the maximum amount of money available.

Us knowing what kind of health insurance has been paying for your treatment, or knowing that you did not have health insurance, will help us throughout your case. Frequently we will not know the exact amount that is to



be reimbursed until we are on the verge of settling your case. There are a variety of reasons for this:

- ① We may be waiting to see if the entity seeking reimbursement does what they are required by law to do;
- ② We may want your input on which course of action you want to take if we are able to give you different options;
- ③ The insurance company may not have given us an itemization of what the insurance company has paid; and
- ④ We may be trying to negotiate a reduction in the amount using the Indiana law that applies.

There are three main ways your case will be resolved:

- ① By negotiation by telephone with the insurance adjuster or insurance defense attorney;
- ② at mediation; or
- ③ by jury trial.

Most cases are resolved by the first or second method. Even when suit is filed, it is rare that your case will actually go to jury trial. In spite of this fact, we must be ready to go to jury trial if we are to get the most money from the defendant's insurance company. Insurance adjusters think about the value of a case in terms of what a possible jury decision would be. Many books have been written, and continue to be written, on what influences jurors. How your case would appear to a jury changes over time and is affected by you. The defendant's insurance adjuster and insurance defense attorney will try to switch the focus



from the defendant's behavior to yours at every opportunity. Prepare for this by taking our advice seriously and staying in close communication with our office. You have already been hurt once—don't do the defense the favor of blowing up your own case. Some very basic ways of helping rather than hurting your case are:

- ① Return our telephone calls or emails promptly.
- ② If we give you documents from the insurance defense attorney to fill out, called interrogatories, fill them out and return them ASAP. We are required by law to comply with court deadlines. If you can't comply with deadlines then the judge will keep out the evidence you have and may terminate the case.
- ③ Sign documents so we can obtain the records that the insurance defense attorney is requesting.
- ④ If the insurance defense attorney asks for you to be examined by a doctor of their choosing, show up on time to the appointment. If you fail to show you will be charged for wasting the doctor's time (this is not cheap) and the judge will likely end your case.
- ⑤ Keep us informed of what is going on with you: you file bankruptcy, you get arrested, you get a divorce, you move, you get a different job, etc.

Here is a final best and worst: the things you can do for depositions, medical exams, and mediation.



Most cases do not make it all the way to jury trial. Nonetheless, once suit is filed, the defense attorney will normally want to take your deposition. A deposition is a formal occasion when you answer the defense attorney's questions under oath while a court reporter records everything that everyone says. We have to set the deposition date and time with the defense attorney. It is important that you promptly return phone calls and emails so we can set up the time for your deposition. Additionally, we will schedule a preparation meeting before your deposition so the deposition will be a less nerve-wracking experience for you. Do your best to get a good night's sleep before your deposition.

The defense attorney may also demand that you be examined by a doctor chosen by the defense. This is another appointment that you must keep and communicate with our office about. The doctor hired by the defense attorney is often one who is repeatedly hired by the same insurance company. This defense doctor does not treat you for your injuries. He evaluates your injuries and looks for a way to place the blame for your present condition elsewhere. Failing to attend your own deposition or the medical exam can cause your case to be dismissed.

The final vital appointment you should be aware of is the mediation appointment. Mediation does not occur in every case, as we sometimes settle cases over the telephone or at jury trial.

Mediation is a meeting at which the defendant's insurance adjuster, defense attorney, you, and I are present with another attorney, called a mediator. The defendant's insurance company and my law firm pay the mediator to



help us come to an agreed settlement. Occasionally the mediator is the judge or magistrate. First, I present our view of the case; then the defense attorney presents his or her view to us. It is helpful to listen closely. We have all been in situations where another person was so sure they were right, only to learn otherwise later. Open your mind and ears to what the other side is saying. That being said, sometimes emotions run too high for the surviving relatives in a wrongful death case to listen to the defense attorney's view. After both attorneys have made brief presentations, the mediator has us go to separate rooms. The mediator goes back and forth between the rooms, communicating with each side in an attempt to settle your case. The vast majority of cases in the United States settle before mediation or at mediation. At the end of mediation, if we believe the defense insurance adjuster's final settlement offer is unreasonable, then you have the right to a jury trial.

In conclusion: If you want to have a strong case, do your best to stay on top of your medical treatment, keep in touch with our office, and comply with deadlines. When you don't, you make the defendant's case against you better. By working together, we can make the insurance adjuster or jury appreciate that it is time for the defendant to compensate you fully for the injuries the defendant negligently caused.



About Our Senior Expert

Susannah Hall-Justice has represented injured people and their families since 1997. Helping people recover legally using the laws that have developed in Indiana and other states is a puzzle that takes compassion and perseverance to solve. She has been a speaker multiple times at Indiana Trial Lawyers Association seminars and has served on the Board of Governors of that association for many years. She has also served as president of the Tippecanoe County Bar Association (2018 to 2019) and the Carroll County Bar Association, in addition to having been on many local non-profit boards. She lives in Tippecanoe County, Indiana with her family and pets.

Contact Information:

Susannah Hall-Justice
Hall-Justice Law Firm
200 Ferry St.
Suite A
Lafayette, IN 47901

Call: 765-351-7023

Text: 765-588-4678

Website: <https://www.halljustice.com>



7 Questions to Ask a Personal Injury Attorney

By Dianne Sawaya



1. Why do you do what you do?



2. What percentage of your firm specializes in personal injury?



3. Do I get personal attention from my attorney?



4. Does the firm use all the latest technology?



5. Does the firm have a network of local medical professionals and a strong knowledge of medical terminology and treatments?



6. Is the firm ready to take my case to court if necessary?



7. Does the firm carry malpractice insurance for its attorneys?

Finding the right personal injury attorney can be a difficult undertaking. After all, they're everywhere. Although it is fortunate that there are several to choose from, that doesn't mean all attorneys are created equal. After you've been injured, it is very important that you find a personal injury attorney who can be many things to you at once. You want a lawyer who you can build a relationship with, a partner who supports you during your most difficult time, an advocate who will fight for your rights, a guide to take you through the process without self-interest, and a legal adviser who not only helps you find the medical care you need for your physical recovery but also helps you recover financially.



This chapter will help simplify the process and provide you with valuable questions to ask when interviewing your potential personal injury attorney. With these questions, you can be sure the lawyer you choose is the right lawyer for you and your case.

The first question to ask is: ***Why do you do what you do?*** It is a very simple question, and yet, throughout my 30 years of practice, I believe I have only been asked it by a handful of potential clients. What I have discovered, though, is that those clients ended up being the ones I had the best relationships with. From our first meeting, they immediately understood my background, my purpose, and my firm's values. They knew they could trust me, and because of that trust, our conversations were productive at every stage of their cases. That productivity led to the best results for their cases and lasting relationships that continue until today.

Why do I do what I do? should be an easy question for a lawyer to answer. Personally, I find it simple because I have a very simple answer: I want to fight against corporate injustice and be an advocate for my injured clients. I want to protect my clients from being cheated and their injuries disregarded. I want to help my clients obtain medical treatment and heal physically, emotionally, and financially.

These motivations are rooted in my childhood growing up in my father's truck repair shop. As a child, I would follow my father through the halls of his shop, observing and listening when his customers came to him for help. Most of his customers were independent contractors who relied on their commercial trucks to earn a living, so when their

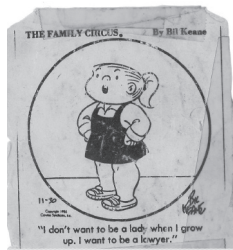


trucks were damaged, their livelihoods were at stake. They would be in tears explaining to my father the responses they received from their insurance companies when they filed claims for repair. Every day they were fighting with their insurance companies was a loss of income for their families.

My father was an advocate for his customers. He helped his customers beyond just repairing their trucks. He fought with the insurance companies to get repairs approved so that his customers could return to work.

Like my father, I wanted to help. I wanted to stop these large corporations from looking at claims as numbers and not as human beings whose lives were shattering. I wanted to open their eyes to the damage that their delays and denials were causing.

When reading the paper one day at my dad's shop, I saw a cartoon from *The Family Circus* by Bil Keane. It read "*I don't want to be a lady when I grow up. I want to be a lawyer.*" I was immediately flooded with emotion. That was it. That's what I wanted to be. I knew that was how I could help stop what I was witnessing. I made the decision right then and there to go to law school and fight for what's right. To this day, I still have the original cartoon in my desk.



For over 20 years, I have fought against corporate injustice in the personal injury field. In that time, countless injured people have come to me for help after being mistreated by their insurance companies. Their claims had not been taken seriously, their injuries had been downgraded or dismissed, and they had not been given the opportunity to evaluate their treatment options.

I have witnessed grave injustices committed by those who are supposed to help take care of the injured. Once, a seriously injured client came to me after an insurance company offered them only a couple hundred dollars to cover all their medical expenses. I've also seen insurance companies refuse payment for injuries by suggesting the damage to the vehicle couldn't result in an injury or that the injuries were preexisting. Other times, an injury might be downplayed as "just soft tissue damage" that should only require six to eight weeks of treatment. Each of these cases infuriated me, but they never surprised me.

This is why I fight so hard to defeat these uncaring corporate giants. Thankfully, I've had a lot of success in that fight over the years. One of my clients—we'll call her CC here—was injured while driving to an appointment with one of the disabled adults she cared for. Another driver t-boned her car on the passenger side, totaling her car and injuring her disabled passenger. The force of the crash pushed CC's knees into the dashboard, resulting in a serious injury, but having served in the U.S. military, CC's instincts were to put the needs of her passenger over her own. She only sought medical care for her own injuries two days after the accident. At that point, she was immediately referred to a physical therapist.



She worked hard to overcome her injuries, but after suffering knee pain for months, her doctors felt that surgery was the only way to correct the damage. Unfortunately, the at-fault driver's insurance company was only willing to offer her \$1,500.00. She knew that wasn't going to be enough to get her healthy again, so she called me for help. As soon as she'd told me her story, I knew the insurance company was once again trying to save corporate money at the expense of an innocent person's health. That's why I took the case, and I'm happy to report that I was able to help CC obtain the treatment she needed and negotiate a total settlement of \$180,000.00.

I wish CC was an exceptional case, but cases like hers are all too common. Something similar happened to another client of mine, Alex. Alex was stopped at a red light when he was rear-ended by a semi-truck, pushing his vehicle 58 feet from the point of impact and causing injuries to his neck and shoulders. Alex went to visit his primary care provider (PCP) the next day and was immediately started on an intense recovery program including physical therapy, chiropractic treatment, and massage therapy.

Nearly a year after the collision, Alex was walking his dog when he slipped and fell. He reported the fall to his PCP and explained that he was experiencing severe pain in both shoulders. The doctor recommended an MRI be done to determine the extent of his injuries, and the results showed that Alex had two torn rotator cuffs and would require surgery. Alex's PCP and his surgeon determined that his injuries were too severe to have been caused by the fall and must have been a result of the collision. He presented the new findings to the semi-truck driver's insurance



company. Predictably, the insurance company disagreed with the medical experts. Instead of paying for him to get healthy, they were only willing to offer Alex a settlement of \$3,500.00. It was at this point that Alex realized he wouldn't get the justice he was entitled to on his own. So, he made a call to my office.

After I met with Alex and his wife, I quickly realized that this wasn't going to be an easy case. Of course, that had never stopped me before. While Alex was working to recover from his injuries, we started working to ensure he received fair compensation for them. After months of negotiating back and forth with the truck driver's insurance company without gaining much ground, I met with Alex again to discuss taking the case before a judge. I explained the process and answered his questions, and at that point, Alex decided to place his trust in me once more and move his case into litigation.

Thankfully, Alex's case never made it that far. During pretrial mediation, two attorneys from the truck driver's insurance company met with my litigation team in a last attempt to reach a settlement. After hours of negotiating, they finally agreed to settle Alex's case for \$145,000.00. The trust that Alex had placed in my team and me had paid off.

Again, that is why it is so important to understand what motivates your lawyer. If a lawyer cares only about quick and easy results so they get their payday, people like CC and Alex will get left behind. You need a lawyer who makes the justice of your claim their top priority. Passion for helping clients fuels a good lawyer's practice. It can



ensure the lawyer goes that extra mile, so the case gets the right result.

That was the case when I represented another client, named Henry. Henry was very badly hurt when a teenager driving a local company's vehicle turned in front of his motorcycle, causing Henry to crash into the side of the car. The company's insurance provider denied any liability and said there would be no settlement offer at all.

Henry was obviously devastated. He had sustained permanent injuries in the crash, and he didn't know how he would ever make ends meet again. When he came to me, he was desperate. Instead of turning him away because the case wasn't easy, I immediately sent an accident reconstruction engineer to the scene of the crash and the salvage yard to examine both vehicles. Based on his report, I was able to show clear liability on the part of the employer and bring the insurer around to a reasonable settlement of \$700,000.00. Without that extra level of dedication, Henry would not have received the compensation he needed to get back on his feet and back to living his life.

Once you're satisfied with why your lawyer became a lawyer, it's time to ask your second question: ***What percentage of your firm specializes in personal injury?*** This may seem an odd question for those outside the legal world, but the truth is there are a many different types of law firms, and not all of them focus on the same kinds of cases.

When specializing in a field of law, an attorney is continuously kept up to date on the changes in the case law and statutes in that field. They will also frequently attend seminars and other education classes that focus on changes



in the law, common obstacles to cases, ways to overcome those obstacles, and new forms of evidence that can be utilized in fighting for their clients.

I can speak firsthand about the major difference between a firm that specializes in personal injury law and one that spreads its focus around too much. I spent almost 10 years as a partner of a large, multi-practice law firm. Cases often didn't receive the level of specialized knowledge they needed to achieve the best results.

On April 1, 2005, I decided it was time to create a firm that focused exclusively on my personal injury work. In order to build my firm from the ground up right away and in the right way, I began operations out of my home with just one paralegal. I was determined to create a firm dedicated exclusively to all aspects of personal injury law. That meant more than just getting results. I wanted my firm to concentrate on my clients' mental and physical recovery as well. With a little time, a lot of grit, and a deep belief in the project, I successfully created a boutique law firm that provides individualized attention to every client from the first day they walk through our doors. We specialize in all types of personal injury cases including:

- Car accidents
- Semi-truck accidents
- Drunk driving accidents
- Motorcycle accidents
- Bicycle & pedestrian accidents
- Brain injuries
- Spinal cord injuries



- Premise liability cases
- Slip & fall accidents
- Dog/animal bites
- Wrongful death
- Burns, explosions & electrocutions

By specializing in personal injury, I have able to track all the changes in the field. I then apprise each of my attorneys of all changes and new developments, and we actively educate every staff member in my firm from the paralegals to the file clerk. Additionally, as an active member of the Colorado Trial Lawyers Association, I have been able to fight for changes that would benefit my clients in state law and against those that would not.

Within my firm, I have also developed procedures to guarantee that every case is looked at individually. What I learned from my prior experience at a large and unfocused firm was that cases need to be seen as unique and approached as such. If each case went through the same formula or the same process, they usually ended up with similar results regardless of the severity of the client's injuries. I feel this is unacceptable. Therefore, we make a point of constantly communicating with our clients, so we understand every aspect of this difficult period. We want to know all the unique struggles they are facing, from simple tasks like doing the dishes to more serious issues like an inability to work or care for their families. We also keep in close communication with our clients' medical providers to understand their treatment, complaints, and test results. These conversations guide our individualized strategy on each case.



It's amazing how many new clients come to me after having already retained another attorney to represent them. Many times, there's a preexisting trust issue with their current lawyer, and they want to make sure what they are being offered by the insurance company is reasonable. Other times, their attorney is simply not qualified to handle a tough case. They become stuck by the obstacles the insurance company presents because they either lack the depth of knowledge necessary in this area of law, or they don't have the network of experts that a personal injury attorney needs (more on this point in question five).

One such client was Sandra, a woman with some significant preexisting health issues before she was side-swiped by a speeding driver and suffered new knee and back injuries. The other driver's insurance company attributed Sandra's new injuries to her preexisting difficulties and said they wouldn't pay more than a tiny amount of money.

Sandra's first instinct was to work with the lawyer who had helped with her divorce, but that lawyer's inability to handle such cases became apparent very quickly. At that point, I took Sandra aside and explained to her that she needed someone with significant experience handling cases like hers. I'm thankful that she agreed and brought me in to take over her case.

Because of her preexisting medical conditions, I brought in an expert to distinguish her old injuries from her new ones. We proved her claim that the symptoms she was experiencing post-accident were not the same as the symptoms she had been experiencing pre-accident. The expert examined her and ran all the necessary diagnostic tests to confirm Sandra's story. I then put together all of



Sandra's medical records, reports from both the police and my private investigator, and worked closely with our expert doctor to write a report on Sandra's medical history. The insurance company couldn't argue with that level of evidence and offered policy limits to Sandra.

Sandra's circumstances are very common. Insurance companies will look for any opportunity to exploit a lawyer's lack of knowledge. It can be even worse when an injured person attempts to take on a case by themselves. That's what happened with Laurie, another of my clients. Laurie needed months of medical treatment after she was hurt in a Denver car accident on Interstate 70. Obviously, that treatment was expensive. The person who crashed into her had \$100,000.00 of insurance, and Laurie's bills added up to a good portion of that. Despite her desperate need for a full and reasonable settlement, Laurie decided to handle the case on her own because she didn't want to pay attorney's fees.

What Laurie didn't know—and what many lawyers who don't specialize in personal injury law don't know—is that Colorado law requires special permission from Laurie's insurer before she could accept the at fault insurer's offer. Otherwise, her insurance company wouldn't have to pay her underinsured benefits. Thankfully, Laurie changed her mind about handling this on her own, and she hired me to navigate the complex laws. I was able to get Laurie a fair reimbursement for her accident with a settlement of \$350,000.00. In addition, I was able to utilize another Colorado law to obtain a waiver on her health insurer's lien of over \$100,000.00.



At this point, you should know if your potential lawyer is dedicated to personal injury law, but there's still a lot you need to discover before you know this is the lawyer for you. For your next question, ask: ***Do I get personal attention from my attorney?*** This is a particularly important question because some firms may not tell you upfront whether your lawyer will be working and talking directly with you. These firms are structured so that other staff members meet with new clients and handle most of the communication. At such firms, communication between the client or the attorney tends to be electronic or over the phone, and it may be quite infrequent. This can lead to a lack of trust between the client and the attorney, and it may suggest the attorney isn't particularly interested in how their clients are doing.

It has always been my preference as an attorney to meet face-to-face with my new clients at the very beginning of their relationship with our firm. I like to hear about their accidents and the impact it has had on their lives instead of getting the story indirectly. I want to feel what they are feeling so that I can properly relay their story to the insurance company when arguing on their behalf.

For me, the new client consultation is one of the most valuable meetings that I have with my clients. At my firm, this is not just a question and answer session. It is a get to know you meeting. I talk to my clients about who they are and what they are experiencing. We talk about their families and their work. We discuss their medical care and symptoms. We brainstorm options for additional care that might be helpful to address the physical and emotional symptoms they have been experiencing. During our meet-



ing, the clients learn about the process while I learn about them. These meetings reveal so many important details about my clients that require immediate attention, even if they are not always case related.

One of my most memorable clients was a family of seven. Mom, Dad, and five children had packed up their entire home and all their belongings into a trailer and were traveling across the country to move into their new home. While on the highway, another driver struck the trailer from behind, causing it to slide sideways on its wheels and tip over. The injuries sustained were severe, and the children were traumatized.

After being released from emergency care and stabilized, we needed to act quickly to get them to the specialists for further evaluation, treatment, and necessary surgeries. In addition to the physical injuries, the entire family was emotionally devastated. Their belongings were in a tow yard, including all the children's toys. To help console his children, Dad went to the tow yard and picked up some of their baby dolls. Unfortunately, he brought dolls without any clothing on them. A lot of lawyers would stay out of this messy, tragic, personal side of a case, but I don't believe a lawyer's responsibilities end at putting forward a strong legal case. Your lawyer must care about you as much as your case. That's why we immediately purchased clothing for the dolls before Dad gave them to the children.

Later in that same case, the children were struggling with their school work because of the trauma they had experienced. We connected with a center that specializes in childhood learning issues to intervene and assist the children. The examples above would not have been rec-



ognized had I not taken the time to personally meet with my clients and build a relationship with them. By the end of their case, I felt that they were an extension of my own family. At that point, it was easy and natural to zealously advocate for them and argue for the best outcome.

A good relationship is critical when working with a lawyer, but your lawyer has responsibilities beyond that. They should be efficient as well as caring. So, you need to know: ***Does the firm use the latest technology?*** Despite living in the day and age of new technology, it is not uncommon to find law firms that still operate utilizing paper-based systems to track deadlines and organize all their client information.

Anyone who remembers the days of all-paper filing knows this system includes significant risks. Paper files can be forgotten or misplaced. Searching for misfiled papers can lead to unnecessary delays as extra time is wasted looking for a file that should be ready at hand. Further, without an electronic system to store client case information, additional time and effort will be required to review the paper documentation to become fully knowledgeable about the case. In other words, it takes longer to obtain information, answer questions, and make decisions. Because of these issues, crucial deadlines can be missed that may affect your case.

When I was a law clerk during my final year of law school, I witnessed how devastating a missed deadline can be. At that firm, deadlines were written on index cards and placed in a box on the attorney's desk. It was the paralegal's responsibility to prepare the deadline card when a case was opened. Unfortunately, the paralegal in this situ-



ation had not created the index card. This was not out of malicious intent. Another emergency had come up that day, and he had simply forgotten to complete the card. Three years later, the attorney did not file the case in court by the deadline. The next day, he was informed by the insurance company that he had missed the deadline, and they were closing the case.

That was it. The case was closed. The insurance company was not going to offer a settlement, despite the negligence of their insured driver and the severity of the client's injuries. There is no forgiveness for human error in the legal field because those errors lead to real-life harm. Therefore, firms must act to protect their clients, not only against the insurance companies, but also against human error. That requires using the best and latest technology to make sure any risk of error is minimized.

When I started my firm, I recognized the need for sophisticated case management software. I worked hand in hand with software engineers to customize my program to meet my firm's goals. Those goals included:



Constant client communication throughout all stages of the case

Instituting a team approach to all cases, where everyone on staff can assist with a case and can be quickly brought up to speed on developments

Immediate access to a client's case information that can be shared with their medical providers and adjusters in a protected manner

Eliminating as much human error as possible with automation of case deadlines and responsibilities

Immediate access to our vast network of experts, medical providers, and insurers

Immediate access to historical data on insurance companies and their adjusters

The case management software program that my firm utilizes meets all those goals and is continuously updated for peak efficiency.



The system creates an electronic file for every client. The program then calculates all deadlines and is shared with the attorney and paralegal handling the case. This information is also available to all staff members for review in multiple areas of the program. As the case progresses, the system documents everything that happens, so everyone in the firm can keep tabs on progress. All phone calls, messages, emails, letters, faxes, medical records, medical bills, insurance information, contact information, demands, injuries, negotiations, and so much more are kept right at our fingertips.

Further, the information is kept perfectly organized. Contacts are easy to access and constantly updated. Documents are easy to create, modify, review, and produce. Communication is constant and responsibilities on each case are automatically assigned and noted once complete. In short, it is an amazing program that allows my staff to focus on what is most important: our client's physical, emotional, and financial recovery.

Beyond this case specific information, my case management software contains the historical data of every client and case that my team and I have represented over the years. This data includes information on all the insurance companies, attorneys, and adjusters I have fought against. The historical reports provide knowledge of how the adjuster usually evaluates their cases. For example, if the adjuster historically offers less than the medical bills, I may decide that pre-litigation negotiations will be unproductive, and we need to file the case into court without delay. If the adjuster typically offers more than the medical bills, I may focus on the non-economic damages in the case



when negotiating. If the insurance company will not reveal policy limits, I can pull a report of that company and see what types of policies they generally issue. I can also pull reports of the opposing attorneys and prepare a plan of action with the knowledge of the experts they typically retain. Finally, I can pull reports of medical experts to determine the strength of their testimony. This information is extremely valuable in preparing a legal strategy and maximizing the value of each case.

My firm doesn't just keep its filing system up-to-date. We are always striving to find and implement all the best and latest software programs that will allow us to work more effectively, including video-conferencing, texting, and encryption programs. We also utilize legal research programs, jury verdict reports, and legal documentaries, so we have immediate access to information as soon as it is available. We feel we must stay on top of cutting-edge technology to provide the best service and experience for our clients.

Technology is only effective if those who use it understand the information it provides. In personal injury law, that isn't just knowledge of the legal system, it's knowledge of the medical world as well. That's why you need to ask your lawyer: ***Does the firm have a network of local medical professionals and a strong knowledge of medical terminology and treatments?*** A personal injury attorney must understand the diagnosis and the treatment their client is undergoing for a multitude of reasons. First, a knowledge of the injuries and symptoms associated with the injuries will help the attorney understand the struggles that their client is facing physically and emotionally.



Second, this understanding will help the attorney communicate with the medical professionals regarding the necessary course of treatment that their client will undergo. Third, the attorney will be able to communicate the injuries and the long-term effects of the injuries to the insurance company in a clear and concise fashion. Fourth, this knowledge will allow the attorney to efficiently prepare a strategy for the case. Finally, and most importantly, understanding the injuries and symptoms allows the attorney to point the client in the right direction regarding their medical treatment so injuries don't go undocumented and untreated.

Of course, lawyers aren't doctors, so it is equally important attorneys have a network of local medical professionals that they can retain as experts to provide medical opinions, make treatment recommendations, and treat the client's injuries on their road to recovery. The benefits of such a network may seem obvious, but there are many personal injury attorneys who do not have medical networks. Their practices only focus on the resolution of a personal injury claim. They tell their clients to obtain treatment on their own and call the firm when they are better.

This may work for some clients, but this is not my approach. I want to help my clients move past this tragic event in their lives. That is why I focus my attention first on my clients, their injuries, and all necessary treatment. To do this, I have made it a priority in my career to remain acquainted with developments in the medical field and meet all medical professionals in my area who could be of assistance to my clients and their cases.



But I go further than that. I frequently bring medical professionals to my office to educate my staff directly. These medical professionals include: chiropractors, physical therapists, acupuncturists, neurosurgeons, neurologists, cognitive rehabilitation specialists, pain management doctors, orthopedic surgeons, psychologists, neuropsychologists, and many more. These experts present the medical research behind their treatment plans and use 3-D models of the human body to describe the injuries our clients have sustained. They also explain treatment procedures and how the treatment works. In some presentations, they were able to demonstrate the actual procedures. With this medical knowledge, my staff is empowered, so they can effectively review our client's medical records, highlight the nature of the injuries, and explain the repercussions of these injuries to insurance adjustors. They can also speak to our clients knowledgeably and empathize with them.

I want to be involved in my clients' recovery process from start to finish. I want to talk to my clients continuously about their treatment and what is working and what is not working. I want to be a resource for my clients when they need help finding a provider. With my medical network, I can make sure my clients are seen immediately by a medical professional without having to wait weeks for an appointment. My office can communicate with the providers and supply medical records immediately. We can also set up financial agreements with the provider so that my clients can receive treatment even if they do not have any healthcare coverage. At my firm, we make sure our clients' injuries are documented and treated while also making sure we maximize the value of their case.

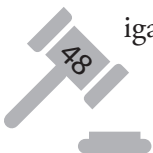


It may shock you to find out that some lawyers refuse to go to trial. Despite their other positive qualities, make sure you find out: ***Is the firm ready to take my case to court if necessary?*** The insurance company already knows the answer to this question, and therefore, it is mandatory for the client to know as well. How does the insurance company know? They also keep historical data on all attorneys and firms that they have faced.

Many assume their case won't come to trial, but you don't want to make that assumption. Although most personal injury cases can be resolved through pre-litigation negotiations with the insurance company, this is not always the case. In fact, more frequently now than at the beginning of my career, litigation has become necessary to fight against injustice.

Insurance companies keep tabs on this information because some attorneys and firms would rather settle a case for a lower offer than proceed with litigation. When confronted with a low offer, some trial-phobic attorney may take the offer, while others may pass the case along to an attorney you've never met who will litigate the case for them. Even worse, the lawyer may drop your case altogether, leaving you desperate to find another attorney to take over your case.

My former client, Brenda, found herself in this situation. Brenda was injured in 2015 when another driver merged into her lane, sideswiping her car. After working with another personal injury attorney for two years, Brenda was blindsided again when her attorney told her that he was dropping her case rather than taking it to litigation. Brenda, now living in another state, frantically



started searching for a new attorney. After making several calls, Brenda luckily dialed up my office. She came to my firm with a \$1,200.00 offer from the at-fault driver's insurance company, despite the severe injuries she had suffered in the collision. My team immediately got to work collecting evidence to support Brenda's case, and in less than one year, we were able to negotiate a total settlement of \$75,000.00.

Brenda's result was possible because I have an amazing litigation team and the insurance companies know this. If the offer being presented is unacceptable, I will not respond with a counter-offer, I will file a complaint. I do not bluff with complaints about going to trial. I am 100% prepared to go forward with litigation for every complaint filed. Insurance companies know they can't afford to push a low offer on my firm. We're going to get the right result, whether it's in a settlement or in court.

The seventh and final question you should ask a potential lawyer is: ***Does the firm carry malpractice insurance for its attorneys?*** After doing your research about the attorney and the firm you are interviewing, you may not feel that this question is necessary. After all, the attorney you found appears to have a perfect record. His career has been filled with a series of success stories and wins. He is a remarkable attorney who has zealously advocated for his clients. You like him, you trust him, you see he's knowledgeable and passionate. He says he'll go to trial for you. What else is there to worry about?

Unfortunately, even a "perfect" attorney can make an inadvertent error that could result in a tremendous loss for his client. In that situation, the only recovery that a



client can receive for their injuries and losses would be a claim against the attorney and his malpractice insurance. If the attorney is covered by malpractice insurance, then a claim can be presented to the insurer. An adjuster would be assigned to the claim for the malpractice carrier and would assist with the communication between the parties. If a settlement or judgement is reached, then the malpractice carrier would be able to issue a check from the plan's available coverage.

If the attorney does not have malpractice insurance, though, the only recourse would be against the attorney. A settlement or judgment from the court would have to be paid from the attorney's assets. If the attorney does not have assets, then recovery may take several years and come in small installments. Worse, recovery may be impossible if the attorney is no longer employed due to the error. Even if the attorney does have assets, the attorney may have to liquidate his assets, which could also be a lengthy process. In other words, there are no guarantees regarding the time-frame of payment.

Malpractice insurance is not purchased to protect the attorney for what he plans or expects to do on a case. It is purchased to protect the client from an unintentional error by the attorney or his staff.

These seven questions are designed to ensure you choose an attorney who cares about you and your case and knows how to get the full amount of compensation you are due. There are numerous other questions that can be asked when interviewing a personal injury attorney, but I feel these seven are a good place to start. I wish you luck in your personal attorney interviewing journey. Please do



not hesitate to contact my office at any time to discuss this information in more detail. I would be honored to assist anyone with this process.



Profit Over Safety:

The Truth About Truck Accidents

By Dino Colombo

We all experience the benefits of the trucking industry in our lives every day. We enjoy shopping for products that were delivered by trucks, filling our tanks with gas delivered by trucks, and using materials and infrastructure delivered by trucks.

In an ideal world, the trucking industry would be known only for those positive uses, but because so many businesses choose to put profit over safety over and over again, the regulations meant to ensure employees and average people aren't harmed are constantly undermined to the point we are all exposed to significant danger.

For those right in the center of the natural gas boom in West Virginia and Ohio, these risks are even more significant. The only way to protect ourselves is to understand the risk and know what to do if the worst ever happens. In that case, you'll need a lawyer on your side who knows how to take on these companies and make sure they're held accountable.

Truck Accidents Aren't Like Other Accidents

Truck accidents aren't worse than car accidents just because of the size of the vehicles involved, they're worse because many of them are so preventable. The Federal Motor Carrier Safety Administration (FMCSA) sets limits on how the trucking industry can operate. These laws are extensive and complex, but they boil down to essential rules that are designed to make sure drivers are qualified and work is performed safely.

One of the most important regulations is the number of hours a truck driver can work in one day, which is 14 hours. That should be straightforward, but in this profit-over-safety industry, the rules quickly start blurring. The trucking companies try to insert one exception after another into the law to get around a straightforward rule. At the same time, truck drivers are often put in a position where they have no choice but to violate the law because it's otherwise impossible to meet their obligations.

The driver, then, has no real choice but to break the law if they want to keep their job. And so, they break the law



and make a choice that can have horrible consequences, as it did for Timothy Roth.

Timothy worked as part of a crew who subcontracted with a natural gas company. His team worked out of a large pickup truck with a big trailer pulled behind it. On working days, they drove from West Virginia to Ohio, where they put down plastic barriers at various drilling sites to avoid toxic waste spills.

On the fateful day, they put in a particularly long day of driving and working. They got their start at 4:30 a.m. in West Virginia, drove 3½ hours, and worked until 10 or 11 p.m. all across southern Ohio. By the time they finished work, they were already over the 14-hour maximum set by the law, but they still had to get home.

They called the co-owner of the company and told him what was going on. The co-owner said, “Look, I need you guys back tomorrow for another job. You need to get home.”

So, at 11 at night, they got in their truck and headed back to West Virginia. They got within 10 minutes of their shop when the driver fell asleep, crashing into a bridge abutment. Timothy was in the back. He was killed instantly.

The driver had been at the wheel and on the job for 22 consecutive hours.

Timothy was 26 when he died, the victim of a classic profit-over-safety mentality on the part of his employers. Because they didn’t want to pay for a cheap hotel to protect their workers’ safety, they put a group of young employees in a tragic situation.

That happens time and time again in this industry. Truck drivers are constantly put in these difficult positions by their companies where they are expected to go beyond the safety limits put in place by the law. Because of a shortage of drivers in the industry, drivers are pushed out on the road for too long, no matter their fatigue, no matter their lack of experience or training. These companies only think about getting a load from A to B, not about the risk to their drivers or the general public.

These aren't exceptional circumstances. This is how the companies operate day-to-day. When we got Timothy's case, we dug into the responsible company, and we found out that it had already lost its authority to operate by the Department of Transportation (DOT). They already had 56 violations for overworking their drivers. Instead of changing their practices or working with the DOT, they simply changed the name of the company and continued their unsafe practices. The company was also forging daily driver logs to show driving hours within legal limits, all coming at the direct instruction of the company's co-owner.

When we put the case before them, the company had no choice but to settle for the full policy limits that went to Timothy's family.

Unfortunately, though we were able to hold that company to account, there are always other trucking companies out there doing the exact same thing. They prey upon young men with limited education and prospects. They offer a decent wage in exchange for these difficult—and illegal—working conditions. It's hard for people in that position to say no. The results are inevitable. There are far



too many Timothy Roths out there, all putting their lives and the lives of others at risk for these companies.

This is why truck accidents aren't like every other accident out there. Unlike most car accidents, many truck accidents involve malicious actors making a conscious choice to put everyone in harm's way, just so they can make an extra buck.

How Trucking Companies Get Around the Rules

Trucking companies aren't just finding ways to get around the limits on driving hours. They are looking for ways to skirt all the laws in place to keep us safe.

For instance, every motor carrier is required to do a background check for every driver they hire. They have to check driving history, work history, criminal history, medical records, and review references to make sure the driver is qualified to operate a commercial motor vehicle. But, when a trucking company needs drivers and the only drivers available can't pass the background check, they don't expand their search, they cheat the system.

As with Timothy Roth, these practices have real, tragic consequences, and those consequences came for Donna Collins. She was a 34-year-old who was just trying to turn left at a green light in Clarksburg, West Virginia when another gas company's large pickup truck blew through a red light at the intersection and crashed into her. The pickup driver hit Donna's car on the driver's side going 52 miles an hour. Donna survived, but she suffered multiple fractures and a traumatic brain injury. She now has to use



a walker to get around and needs assistance for most daily activities.

When we took the case, we discovered very early that this wasn't just about a driver not paying attention, it was about the quality of drivers the company was hiring. We found out the company had almost no information at all about the actual driver. They didn't have his driving history, his work history, or his criminal history. In fact, they barely interviewed him. This was another profit-over-safety choice by another energy company that led to an innocent person's suffering.

So, we decided to do the work for them. We looked into the driver's history and found out that he was a fugitive from justice. He had been convicted of two DUIs, and he hadn't completed a mandatory alcohol education course.

The company didn't care. They only cared about finding a way to get absolutely any driver who walked in their doors on the road as quickly as possible. They ruined Donna Collins' life, all so they could make a few more bucks a little faster.

These companies will do anything to get their profit. There's not a rule they won't ignore when it suits them. That's the case with interstate commerce laws as well. Most trucking companies are interstate, which means they ship between at least two states. To get DOT operating authority for interstate shipping, though, a motor carrier has to have the proper amount of insurance coverage and fill out a lot of paperwork. This is required to do any transporting across state lines, and yet, astoundingly, some companies just don't bother to do it.



For Michael Moore and his 17-year-old daughter Braylie, that crass carelessness was a death sentence. They were simply sitting at a stoplight when a tanker truck carrying toxic fracking water slammed into them at 58 miles-per-hour. The force was so great, the truck flipped on top of their car, killing them instantly.

Fracking water is highly toxic, and it should be handled with the greatest care. And yet, when we looked into it, we found the company responsible for transporting it in this instance could barely be considered a trucking company, let alone one specializing in toxic waste transportation. They had, until recently, been a construction company. To get in on the energy boom, they bought a lot of trucks and just started hauling waste. Even worse, they didn't bother to get DOT operational authority. They were transporting highly toxic material that could kill many people or destroy huge areas of wildlife, and they didn't care enough about the rules to even get the authority to do it.

Is it any surprise that they hired the quality of driver who would be so unaware, they wouldn't even touch the brakes as they sped towards an intersection full of innocent people?

Perhaps even more amazing, this very truck had just been pulled over not 24 hours before the accident and given an out of service order. When we talked to the driver, he told us he had spoken to his supervisor about the order. They told him, "We've got all the paperwork taken care of. Don't worry. Get back out on the road."

A day later, Michael and Braylie Moore were dead because of that decision.



The blame for this goes far beyond the driver. The trucking company choose to endanger lives every day they operated from October 2017 until this accident in June 2018. At the same time, they were hauling toxic water for one of the largest natural gas drillers in the country. That company didn't bother to do enough research to find out whether this company could be trusted. Everyone consciously looked the other way, and people died because of that profit over safety philosophy.

Fighting Back: Getting the Right Lawyer

Reading through the stories above, it's understandable you might feel a lot of despair. It seems trucking companies will take every opportunity to cut corners and risk our safety for the sake of their profit margins. And once an accident happens, it feels like there's nowhere to turn, no one to help hold these people accountable.

The first part of that sentiment is correct: these companies really are always putting profit over safety. However, there is a way to hold them accountable. The right lawyer will be able to take those awful cases and get justice and significant compensation for the victims.

That leads to an obvious question, though: how do you find the right lawyer? After such an accident, you have to be sure you have a lawyer that can take on some very significant and intimidating adversaries. So, to make sure you know you've got a lawyer up to the job, look for one that meets all the following qualifications.



Get a Lawyer Who Truly Understands the Regulations

The federal rules from the FMCSA that are meant to regulate the industry are also what make it so difficult to bring a case against these companies. These regulations are meant to be strict, but instead of inspiring improvements in efficiency and training, they often lead companies to look for ways around the rules. Sometimes, the way around is a cut-and-dried deception, as with the trucking company responsible for the deaths of Michael and Braylie Moore. Other times, though, companies invest a lot of effort in finding the loopholes that can protect them from accountability.

We know already that the law says a truck driver cannot drive more than 14 hours a day. That seems like a very simple rule, but the reality is, there are a number of exceptions to that rule. These exceptions are very complicated, and it can be very difficult to interpret whether the exception applies or not. The level of complexity is high enough that it often fools inexperienced lawyers who don't fully understand every aspect of the law.

The Federal Motor Carrier Safety Regulations are hundreds of pages long and full of detailed and complex instructions. If a lawyer doesn't have a high enough level of background familiarity with those regulations, they can't expect to have success with these cases. It takes countless hours of study and research in order to know more about these laws than the insurance company and the trucking company.

These companies are counting on coming up against lawyers who don't handle these cases on a regular basis.



When you get a lawyer who doesn't know the ins and outs of these regulations, you're putting your case at risk. I don't know how many times I've seen cases fall apart because the insurance company found a loophole they could exploit that the victim's lawyer couldn't counter. Don't let that happen to you.

Get a Lawyer Who Has Access to the Best Experts

Regulations aren't the only complexity in a trucking accident case. Getting the full picture of what happened requires more than just a lawyer talking to you in their office. To get to the truth, that lawyer needs access to quality experts who can find out what happened and provide insight on what happens next.

My clients are often surprised to find out that almost every vehicle on the road has a module within it that is equivalent to the black box you find on airplanes.

When there's a significant crash, this black box records a lot of very important information, such as how fast the vehicle was traveling before the collision. It can also tell you when people pressed on the brakes, if they did at all. It gives you a plethora of very valuable information that can help determine who was (and who was not) at fault in the collision.

So, to begin with, you have to have experts who know how to download and interpret this data. Just think about how many different types of vehicles are on the road, all the different brands of trucks and passenger cars. You have to have an expert witness with the equipment and know-



how to fully understand and explain that information to your lawyer, the insurance company's lawyer, and potentially, a jury.

And that's only a very small part of the story. Another crucial element is the accident reconstructionist. An accident reconstructionist takes the black box and then applies it to the physical evidence they find at the scene. Skid marks, gauge marks, damage to the vehicles, damage to the roadway, the guardrails, and the median: all of these things leave interpretable clues that tell an expert exactly what happened.

A good lawyer will know how to choose the best experts who can paint the clearest possible picture of what happened and who made the crucial mistakes that led to the accident. Without these experts there to flesh out the facts, a lawyer is working with one arm tied behind their back. Only with top-quality expert witnesses, witness statements (if available), and police reports, can your lawyer assemble all those very complicated pieces of the puzzle to come up with what really happened.

I was recently contacted by an inexperienced lawyer who had just taken on a truck accident case and simply didn't know what to do. Because he didn't often work in this area, he had no expert contacts to investigate the case. He didn't know who to talk to, but he wanted to do right by his client. So, he called us. We know who the experts are; we see them on a regular basis. Luckily, he called us early, and we were able to connect him to the right people, so he could get the crucial details about that truck accident.



That call had to be early, because with accident reconstruction, time is a major factor in success. You need a lawyer who can get the experts on your case immediately because those experts need to get to the scene of the accident before the evidence is lost.

Evidence like skid marks and debris can get cleaned up or washed away remarkably quickly. The Department of Highways is often already in the process of repairing the guardrail or fixing the median when experts arrive. We want our people to be out there taking measurements, taking photographs, and looking at the scene before those changes are made.

The same is true for the physical damage to the vehicles involved. Often times, insurance companies want to either discard the vehicle or repair it as soon as possible. At the same time, we already know that trucking companies care less about the accident and more about getting that truck back on the road again. The risk of losing evidence, then, is very high if our experts don't act fast.

Beyond accident reconstruction, you also often need forensic economists to get involved because the injuries sustained may require a substantial lost wage claim. If a person has been killed or so seriously injured they can never work again, you need to be able to calculate the victim's lifetime lost wages. Families will depend on getting this number right, so you need to make sure you have an expert who can properly calculate that value.

To reach that number, a forensic economist will evaluate the value of the benefits, the fringe benefits, the insurance, the income, and the household services that the person had been providing. For example, when a husband



has been killed in a truck crash, a family will have to do more than just live without him and his salary. He was also cutting the grass, shoveling the snow, doing the repairs on the house, and taking the kids to school. All those activities have to be accounted for because they have been lost forever just like his income.

This calculation can often get quite complicated. For instance, some truck accident victims can return to work, but they can't do the work they had been doing before. They have to take a lower wage job. We call that a loss of earning capacity. Once again, we'll need to figure precisely what the loss in income will be over a lifetime because that person is never returning to their former, more lucrative profession.

Lost income isn't the only factor here, either. A victim may also require compensation for a life care plan. Sometimes, when there's a crash with a large truck, the injured person will need help with what we call the "Activities of Daily Living." This is the unfortunate case for Donna Collins, who needs daily help with things like fixing her breakfast, making her bed, and keeping track of her medication requirements. All of those things that we take for granted when we are healthy, Donna can no longer do alone. That assistance costs money, and that money should come from those who put Donna in that position.

Those types of calculations require another expert: a life care expert. This expert will evaluate the injured person to figure out what that person can and cannot do and what amount of money is required to make their life as comfortable and full as possible.



Once the life care planner and the economist have reviewed the situation, your lawyer should bring them together to come up with the total economic loss.

Clearly, then, taking on a truck accident case isn't as simple as getting a police report and claiming the truck driver is at fault. Your lawyer has to reconstruct the whole accident and properly evaluate all of the economic damages. To do that, they need to have a lot of high-quality experts immediately available to help.

In order to get those experts on your side, you need a lawyer who knows those experts. At the same time, you also need a lawyer who can afford them. To get the best experts to assist on your case will cost tens of thousands of dollars, and sometimes more. Most victims of truck crashes simply don't have the money to front all of those expenses. A lot of small law firms don't have that money either. So, to ensure a successful case, the law firm you choose has to have the financial wherewithal to advance all of those expenses as the litigation proceeds over the next two, three, or four years. Very few law firms have the money on hand to finance such an expensive process for so long. Make sure your law firm is one that can.

Get a Lawyer with a Lot of Experience

In law, experience isn't the only component of a successful case, but it's one of the most important. Experience gives a lawyer insight into the obstacles to your settlement and the best ways to overcome them.

I rely upon my experience in every single case I take. I've been a lawyer for 30 years. About half of my career



was spent as a defense attorney working for insurance companies. So, unlike almost every other lawyer, I know exactly how lawyers on both sides of a case think. I know how an insurance company will evaluate a case. I know how and why they will or won't settle. I know what they view as important. That gives my firm a really unique advantage that most law firms lack.

Experience also prepares a lawyer for every eventuality. I've tried nearly 100 cases to verdict, and these days that kind of experience is very rare. A lot of lawyers won't have 10 cases that they see through to a jury verdict. Even if they've stepped into a courtroom a few times, they likely don't have much experience presenting the entire case and allowing a jury to come to a decision.

Trying a case is not like riding a bicycle. You can't try a case once a decade and maintain the kind of skills that will lead to success in the courtroom. In other words, to be a good trial lawyer, you have to try a lot of cases.

That may not seem important to you because you've heard that most cases don't go to trial anymore. That's true, but the insurance company still needs to know that your lawyer is willing to go to court and capable of winning if they do. If you have an inexperienced lawyer, the insurance company may push harder for a trial and offer a smaller settlement to see if the lawyer will take less to avoid looking bad.

The insurance companies know which lawyers will try a case and which lawyers will not. Simply put, the lawyers that try cases will get the maximum value on settlements; the lawyers who don't will get less.



Get a Lawyer Who Cares

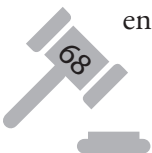
Once you find a lawyer with the right experience and expert contacts, there's still one final quality you need to consider before letting them represent you. You have to know they care about you and your case.

In a truck accident, you're going up against a profit-over-safety insurance company and a profit-over-safety trucking company. The last thing you need is a profit-over-client lawyer representing you. Instead, you want a lawyer who cares not just about the payday but about the pain you are going through and the injustice that has been done to you.

Results are important in a trucking accident case, but just as important is showing a victim of a horrible accident that you know they are suffering, and you care about helping them put their lives back together.

That care translates into clear and consistent behavior toward the client. For instance, you should expect your attorney and your attorney's office to communicate with you regularly. That means answering your questions thoroughly and in a timely fashion. You should also expect your attorney to be straightforward with you about whether you have a recoverable case or not. It doesn't do anyone any good for your attorney to just tell you what you want to hear. Your lawyer should have your best interests in mind, and that means complete honesty with you about how long a case will take and how much to expect from a settlement from day one.

At Colombo Law, we believe in always putting our clients first. We see our work as a necessary public good.



Every day, we see how these companies push their drivers until they become a public danger to all of us. The only way to keep these companies in line is to fight for justice for those who have already been hurt by those profit-over-safety choices.

I wish I never had to see another case like Timothy Roth, Donna Collins, or Michael and Braylie Moore come into my office, but they come almost every day. It's my duty to use my experts, experience, and compassion to fight for each and every one of them.

I hope, if you are in ever in a truck accident in West Virginia or Ohio, you will come to Colombo Law, so we can fight for you, too. You can call us and set up a free consultation where we will answer all of your questions for free.



Justice for Tina

By Glenn Honda

Every personal injury case is about seeking justice for someone who has been harmed by the action or negligence of another person or entity. It's always a difficult situation for the person who has been harmed, and we are often moved by the stories our clients tell us. Tina, though, is a special case even among those stories. Her plight left all of us determined to leave no stone unturned in finding justice for her.

At the time of the accident, Tina was 88 years old. She lived at home with one of her daughters, but because of some kidney failure, she needed regular dialysis. Aside from the dialysis, she was in great health and spirit. She took care of all of the grandchildren, cooked for the family, and even walked to the market, a half hour trip each way, every day. Although she was living with family, there was no one who could take her to dialysis in the middle of the day three times a week. But, she qualified for a program that provided a kind of medical transport—similar to a handi-van—to pick her up at the house, take her to the dialysis clinic, and bring her back home. The

service was contracted by the dialysis clinic. The transport driver has some simple medical training, and wheels the patient from their door into the van, and then from the van into the dialysis facility, whereas a regular handi-van usually just drops off the patient.

On this particular day, they came to pick Tina up as usual, she had her dialysis, and was on her way home. In fact, the van was trying to make a left turn into her street when the accident happened.

The transport van was hit by an oncoming pick-up truck as it was making the turn. It was a horrific accident. The van spun around and rolled over onto its side.

The intersection is governed by a stop sign. Supposedly, the truck had stopped and was proceeding forward from the stop sign as our transport driver was trying to make his left turn.

Whose fault was it? In this case both drivers had some fault. When you are making a left turn, you are supposed to yield to oncoming vehicles, whether they are coming toward you legally or illegally, so clearly the transport van driver was at least partly at fault. On the other hand, the impact was much too severe for the truck to have started from a complete stop at the stop sign. Either the truck driver stopped and then floored it, or never came to a complete stop at all. There is no way to tell for sure.

Tina passed out upon impact. Her wheelchair had been locked in place, but became dislodged with the force of the collision. She woke up with blood on her face, and thinking that it was hers, she felt around to see how she had been hurt. Although she used a wheelchair, she could



walk a little bit, so she tried to get up, and was going to try to get out of the van. Tina may have been 88 years old, but she was tough. There was another wheelchair-bound patient in the van. Tina managed to dislodge herself from where she was, and reached over to the other patient, trying to wake him up so they could both exit the vehicle. He was dead. That was when she realized that the blood on her face was his, seeing that he was a bloody mess.

Tina wasn't bleeding from anywhere. She was severely injured, but all of her injuries were internal. So after trying to wake the other guy up and finding that he was dead or completely unresponsive, she tried to get out. That was when she realized that her leg and hip were broken. It turned out that her pelvis was also broken. She had managed to wiggle herself out of the wheelchair, but there was really nothing more she could do. So she waited and she passed out again. The next thing she remembers is the first responders breaking open the van with the jaws of life.

They took her out and put her in the ambulance. All she remembers is waking up a couple of times and then being at the hospital already.

At the hospital, Tina's family was very concerned. Tina kept saying that she wanted to go home, but she couldn't walk with the broken hip, pelvis and broken leg. The doctors insisted that she stay, but she kept pushing and pushing until they finally let her out early. She persuaded one of her grandchildren—they are all in their 40s, so they're not kids—to tell the hospital and the doctors that there would be somebody home to help her. That was not entirely true. They would take some time off to be with her,



but she would not have somebody there 24/7, which was what she really needed.

Anyway, she got her way and went home. She couldn't get up the stairs, so they converted the living room into a makeshift bedroom for her, and she seemed to be doing fine. She wanted to resume her prior activities, and even managed to make it to the market and back, but she was really sore for the rest of the day. So she couldn't walk anymore after that. One of her children went to look at her leg and discovered that it was really black and swollen. It turned out that her pain was not from the walk, but from some gangrene that was developing in her leg. It was a vascular issue.

Ironically, the doctor said if she hadn't gone for that walk, they would not have known about the gangrene in her foot because they thought she was doing fine.

Tina had to go back to the hospital, and it turned out that there were a lot of vascular issues caused by her being so inactive while recovering from her injuries. She had been in the hospital for a couple of months, which meant she wasn't up and moving around, so she had developed necrosis. They removed some of it and gave her a lot of antibiotics. She was in the ICU for a couple of weeks. The doctors thought they had it under control, but it got worse and they ended up having to remove her big toe.

They let her go home, thinking the necrosis was under control, but they have had to remove more of the tissue from her foot. Tina had to go back to a rehab hospital so she could try to learn how to walk again. It turned out she was never able to go home again although she really yearned to go home, back to the life she loved.



Now she had these chunks of her foot actually missing. There was still an odor from the bacteria, but the doctors said that was the best they could do at the time.

Both of the vehicles in Tina's accident were company vehicles. The truck that hit her transport van was owned by a construction company; the passengers were all young, strong construction workers. They were not seriously hurt, except for one who was riding in the bed of the truck. He had to have back surgery. But this was obviously a high value case, with one person killed and the serious injuries suffered by Tina and the construction worker.

We filed a suit on Tina's behalf against both the truck driver and the construction company. I wanted to make sure that we could maximize the settlement to account for Tina's ongoing medical care, which looked like it might be permanent. But Tina said she just wanted to settle.

So we had a meeting at the rehab facility. Tina didn't speak much English—though I suspect she could speak and understand more than she admitted—so I brought my own translator because I wanted to be sure that she was not being pushed to do anything by any of her kids or grandkids. The translator was my former secretary, who is now retired, and I knew I could trust her completely. She had been with me for 20 years. There was a lot of money on the table, and I didn't want anyone else influencing Tina's decision.

Tina was as tough and spunky as always. We talked about the situation and I told her I thought I could get her a higher offer.



But she was determined. She said, “No. I want to settle now. I want this to be behind me. I don’t care if I have to spend the rest of my life here in the hospital, but I don’t want this lawsuit looming over me. Let’s just get it done and settle it.”

I said, “Okay, but before I let you go, I have to ask. Is there anybody who is forcing you or pushing you into this? Making you feel like you should settle instead of trying to hold out and get enough money so that we can pay your medical bills and everything?”

The look on her face was priceless. She just scoffed at me. All of the family members in the background started to giggle. It was clear that nobody bosses this woman around.

My translator was listening to them and laughing with them. She said, “Nobody tells Nana what to do, ever. Nana tells everybody else what to do.”

So I said, “Okay,” and we settled the case, even though the settlement was a little less than the value of the case.

It would not have been ethical for me to take less than value without asking her, and in a situation like this with an elderly person dependent on family, you worry that that are being manipulated for their money. I wanted to be sure that I was taking my direction from Tina and not from her family. I was able to walk away feeling very confident that it was her decision and no one else’s. She had been through a lot and the quality of her life had been dramatically altered, but she wasn’t in it for the money. She just wanted to put it all behind her and move on.



Ironically, even though we settled with the defendant's insurance company, we were still negotiating the underinsured motorist claim with Tina's own insurance company. Sometimes dealing with your own insurance can be even more difficult than dealing with the other side. It is a sad reminder that no matter how friendly they might appear at first, no insurance company is actually your friend.

Tina's justice was that she passed, knowing a settlement was in place, and that it would help take care of her family for years to come.



Things You Need to Do after a Car or Truck Crash

By Roberto Salazar

I had a potential client contact me recently, a man named Juan. He had been involved in a very serious car crash about a year before, but at that time, he had refused to go to the hospital. Later, despite having some signs of injury, he chose not to get any medical treatment.

When he showed up at my office, we listened to his story and his continuing struggles with those injuries. We did what we could for him. We submitted a claim to the insurance company. We explained how this was a serious crash, and my client was still feeling the effects a year later. We asked for policy limits on the case.

The adjuster called back to deliver the bad news: “We’re not offering much. There are no medical records indicating that anything bad happened to him. Your client was very lucky that nothing happened to him. So, our low offer is reasonable in our eyes.”

Juan, despite having chronic health issues now, hindered the value of his case by failing to seek treatment that would have documented his injuries.

I wanted to start with Juan's story because it illustrates clearly why it's so important that clients get treated for any injuries they have as the result of a car crash. Victims of car and truck crashes must tell medical professionals about the full extent of their injuries, and they must do it as soon as possible. Otherwise, they can end up in Juan's position, with the insurance adjusters unwilling to compensate for anything that has not been documented in the medical records.

I don't blame Juan in this situation. I don't blame the insurance adjuster either. When someone waits weeks and months to seek medical treatment, adjusters have a hard time believing that the injuries are related to the crash. At the same time, a lot of people will wait and see if the pain goes away. Medical treatment is expensive, and people try to defer seeking assistance until they are absolutely sure that assistance is necessary.

That may make a lot of sense in non-car crash situations, but I'm here to tell you: that choice is not in your best interest when it comes to legal matters after a car crash.

I understand that, after a car crash, the thing you want most in your life is to be able to get on with your life. You didn't ask to be involved in the car crash. You want your life to get back to normal as fast as possible. It takes a real emotional toll to go through the whole medical treatment process after a car crash. Unfortunately, it's necessary to



get that treatment and to document it. If you don't, it will hurt you and your case.

Because this is of the utmost importance, and because people like Juan don't know what they should do after a car or truck crash, I believe those of us in the legal community have to do more to make sure the next person doesn't make another crucial, costly, and painful mistake.

All the Steps to Follow after a Car Crash

With that in mind, be sure to follow all of these steps if you are ever involved in a car crash. Even if you don't think you're injured, even if it's inconvenient. Follow these steps so you don't have to worry about finding yourself in Juan's position later.

Call 911 if you are hurt. Your health matters more than anything else in the world.

First and foremost, you have to take care of yourself. Everything else can be resolved later. If you've been injured, you need to call an ambulance. It's not always easy to know how injured you are after a car crash, so it's always best to get assessed by medical professionals as soon as possible.

Call the police to make sure you get accurate information about what happened.

While you're on the phone with 911, make sure they are sending the police as well. In fact, injured or not, call the



police. You need them there as soon as possible to document precisely what happened.

A lot of times, people will move their cars after the crash, which makes it harder to see what happened if there is significant delay. Sometimes, both parties may agree not to report a car crash, trying to work out an agreement between the two of them later. They'll exchange numbers and leave. Then, when you call the other driver to discuss injuries and payment, the other driver stops responding. At that point, you are in a very difficult position. You are going to have a really hard time proving what happened in that crash when there is no police report and no documentation of how it happened. Now, it's just your word against theirs.

Don't put yourself in that situation. Get the police there so there's a record of what happened, who is at fault, the identity of the other driver, and basic insurance information.

Write down the names, addresses, and telephone numbers of any witnesses to the crash.

While you wait for the police, make sure to get all the contact information of anyone who witnessed the car crash. A lot of people assume that the police are going to take the names and numbers of witnesses, but far too often, they do not.

We often get clients who come to us claiming witnesses told them it was the other driver's fault. When we ask for the information, they tell us to talk to the police, who



then tell us they don't have it. In the end, there's no way to track those witnesses down to prove what happened. Valuable witnesses to cases are lost this way every year.

Take pictures.

You have a cell phone with a camera in your pocket, so use it. Take pictures of where the vehicles are located after the crash. Then, take pictures of the damage to both vehicles. Many times, it is hard to get pictures of the other driver's vehicle after they leave the scene. Therefore, if you can do it, make sure you do to preserve the evidence immediately.

Pictures can be valuable evidence of what happened. Again, don't rely on the police to do this for you. Take pictures of everything you can think of.

Make sure to tell the hospital staff and your medical providers about every ache and pain.

If you go to the hospital after your car crash, be sure to tell the medical professionals that treat you about every single part of your body that hurts, even if it's just a little. If it wasn't hurting before and it's hurting now, you need to let them know. Even if it was a condition that you had before, and now it's hurting worse, you need to let them know. If your knee is hurting, if your ankle is hurting, if your back is hurting, if your neck is hurting, if you've got a headache, you need to let them know. Also, make sure they make a note of it.

Rest assured, you are not being a nuisance, you are not complaining too much. You are protecting yourself.

A lot of people will only tell doctors about those areas of pain where the pain is most intense. Then, six months later, they'll say, "Oh, my knee is hurting." They didn't say anything at the hospital, and now, it turns out that they have a torn meniscus. Now, they're going to need surgery on their knee, and the insurance company doesn't want to take it into account as part of the injuries of the crash.

As we've already seen with Juan, many times, insurance adjusters will not believe a person injured a certain part of the body because it was not mentioned in any of the medical records after the car crash. Instead, they assume the injury came from some unrelated incident.

The lack of documentation makes it much more difficult to convince the adjuster that the injury was caused by the crash.

If it hurts later, go back to the hospital or your doctor.

The human body can behave in very strange ways after a car crash. Often, the adrenaline pumping in your system after a car crash hides the pain your body has sustained. In such situations, the crash happens, and the client reports that there are no injuries because their adrenaline is hiding the pain as part of the body's defense mechanism.

They don't go to the hospital or seek any treatment. Then, the next morning, they wake up, and they feel as if they were hit by a ton of bricks. They are very, very sore.

That's understandable, and juries understand that phenomenon very well, which means it won't destroy your



case if you didn't go directly to the doctor after the car crash, so long as you went soon after the crash.

Once again, mention everything.

Make sure you go to all the recommended treatment to get the maximum health recovery.

As we've already discussed, there's a real reticence to being bogged down in life by medical care. People want to get on with their life. They have jobs. They have kids that need to go to school. They have commitments they need to keep. So, the last place they want to be is at the doctor's office.

Doctor's visits take a lot of time, and they are just overall uncomfortable and inconvenient. So, many clients will resist the idea of going to the doctor, and even if they go to that initial visit, they'll try to avoid going back or going through with important treatments like physical therapy.

Sometimes, physical therapy makes you feel worse in the short-term. That's normal, because sometimes, you have to feel worse before you get better. The important thing is that the extra discomfort upfront is no excuse for avoiding treatment.

You need to go through the full treatment because that's the only way you can get the maximum recovery from the treatment. Even though one particular day may hurt more, or you feel that the doctor is not helping you on that particular day, you should not stop.

This isn't just for your health, it's for any potential case as well. The adjuster may look at your delinquent physical

therapy record and say, “Well, he didn’t go. So, if he didn’t go to get treatment, then obviously he was not in pain.”

It then becomes very difficult to convince them that the pain is real and present, and there were other reasons you avoided treatment. So, to the extent you can go, you should go. You should continue to go and get all the recommended therapy and exams through to completion.

Make sure you have a professional on your side, the insurance company does.

This may seem like a big step, but the truth is, if you’ve been in a serious car crash, you’re going to need a lawyer. The insurance adjuster is highly trained to minimize the value of your case. Only a lawyer on your side can balance the scales of justice. Many people make the mistake in thinking the adjuster is going to treat them fairly. This only hurts their case in the end. Insurance adjusters don’t find you doctors for you to go to, and they definitely don’t pay anything until the case is settled. It is not the way the system is designed to work.

Having a lawyer is obviously important to pursue a case against the insurance company, but that isn’t all a lawyer can do for you.

It’s an unfortunate fact that there are some doctors that will not treat someone if they have been involved in a crash. Even if they’re your regular doctor who treats you for everything, sometimes, they will not treat you after a car crash. One reason for this is they don’t want to be involved in the litigation process. It takes up too much of



their time, and they are willing to turn away patients to avoid getting involved.

If you have an attorney, they will probably know some doctors who will be willing to treat you and wait to be paid until the case is resolved. When you need treatment, this help is priceless.

Don't just pick any lawyer.

When you need a lawyer on your side, you may think the best course is to just pick a name out of a hat or call the first number you see on a billboard, so you can get help fast.

That's a completely understandable impulse, but you may quickly find out that all lawyers are not equal. The attorney you choose should not just be concerned with your case and doing what it takes to get paid. They are there to help you get your whole life back on track.

That commitment to clients has to come first. However, not all lawyers think that way.

At the Law Office of Roberto Salazar, our commitment is to our clients' needs. If a case does not go as hoped and there's nothing recovered, the client owes us nothing. All monies that we have advanced in filing a lawsuit—taking deposition of witnesses, paying for medical exams and medical procedures, etc.—are waived by the office. We don't ask to be reimbursed, and we don't want to be reimbursed.

I mention all this because I want to make it clear: choosing a lawyer is not as easy as picking a name out of



a hat. You need to make sure the lawyer you choose truly cares about you.

Finding a Lawyer for Your Case

What does a good lawyer look like? What qualities should he or she possess?

Most people don't think much about lawyers in their day-to-day life, so they don't have a good idea what they should look for in a lawyer when they actually need one.

You may know some of the basics about finding a lawyer—asking for recommendations from family and friends, reading reviews online, and such—but once you have a few lawyers in mind, it gets a little trickier when trying to figure out just which qualities you need to pay attention to that might make a difference to your case.

Look for a lawyer who treats you well from the beginning.

One of the things you should look at is how your potential lawyer treats you when you call. Are they friendly or are they very matter of fact? Are they empathetic or just trying to get through the call and move on? Do they answer all of your questions or try to rush you off the phone?

That'll set the tone for everything else in your attorney-client relationship. If you get a lawyer who doesn't care upfront, they aren't going to start caring down the line.

As your case progresses, you're also going to need more than just a lawyer who understands the basics of the law.



You'll need someone you can count on for updates, to take your calls and answer all your questions. Knowing what kind of lawyer you're dealing with on the phone is key to knowing what kind of lawyer you'll work with in the future.

Look for a local lawyer.

Along the same lines, you should also look for lawyers who are local. Find out if there's an office in town, so you can walk in any time and check on your case.

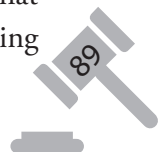
Look for a lawyer who will keep you informed.

Overall, what you want is a lawyer who cares enough to make it a priority to keep you informed. We try to call our clients every couple of weeks at the outset and then about every month, even when not much is happening in the case. Litigation has a way of moving slowly in some parts of the process, and we understand how frustrating that is for our clients.

You want your lawyer to be reasonably available to you. That's why I take my clients' calls personally.

Look for a lawyer with a track record of success.

Beyond that, you should look at a lawyer's track record. How successful have they been with cases like yours? You want someone who has had experience and has gone through the various iterations, the various difficulties, that arise from case to case. While every case is unique, having



a broad amount of success with similar cases over the years will help ensure your lawyer is capable of handling anything that comes up as they pursue your claim.

An established lawyer will also have all the required staff and financial resources to handle your case. Too often, new lawyers can run into financial trouble trying to handle big cases with big expenses. They just don't have the money for all the costs involved in litigating the case. You don't want to put yourself and your case in that situation.

Before even making a phone call, you can get a feel for how experienced your lawyer is by reviewing their biography on their webpage. The more years of experience and the more success they've had, the better. For example, I have been practicing for 34 years now, and our firm has recorded several millions in recoveries. That's the kind of thing you want to see on your potential lawyer's webpage.

So, whenever you speak to your potential lawyer, be sure to ask them all of the following: "Have you handled cases like mine? Have you handled large cases? Do you have the staff to handle my case? Do you have the financial resources?" The answers to those questions are crucial going forward.

Look for a lawyer you can trust.

One of the more elusive qualities you want in a lawyer, one of the hardest to test, is honesty. You want a lawyer who will tell you honestly what your case looks like today and what the most likely result will be at the end of the case. So, ask them what they anticipate from your case. Sure, it's early in your case, and it might be difficult for a



lawyer to give a specific value upfront, but they should be able to lay out the general direction and expectations for your case. If you're looking at a car crash with a minimal policy limit, or where there was minimal damage, your lawyer should know that they're not going to get a huge verdict. In that situation, you want to be informed, and you need a lawyer who will do that.

Questions Most Clients Have About Their Case

Now you're closing in on the right lawyer, I think it's important to highlight some answers to the most common questions attorneys like me get when someone walks in the door. Use these answers as a basic resource so you can understand your case better before you even talk to your lawyer face-to-face.

Is there a fee for a consultation?

Our firm does not charge a consultation fee. Even when I get calls from people for cases that we don't handle, I will still provide basic legal information without charging a cent. I'll then refer them to someone who works in that area of law.

If we don't win do I have to pay you?

We've already covered this a bit above, but I understand that people are particularly nervous on this point, so I want to reiterate it here.



Let me reassure you: if for some reason we don't win your case, you won't owe us a cent. All the money we put into the case, including the health expenses we may have helped you cover, is on us. You will never get a bill from us.

How much is my case worth?

This will depend on many things, such as the damage done to your vehicle, the nature of your injuries, the medical costs for treatment, and much more. Some cases only have insurance for as little as \$30,000. Others have insurance or assets in the hundreds of thousands or even millions of dollars. It will all depend on the specifics of your case.

At the Law Office of Roberto Salazar, we will do our best to get the full value for the damage, injuries, and suffering you've dealt with after your car crash.

How long will it take for my case to resolve?

We've had cases where we're able to resolve them in as short a period as two or three months. Most of them take a year, but some of them take longer.

It all depends on the extent of injuries, the amount of insurance, and the number of issues involved in the case. For instance, is liability clear in your case? If we can show clearly and quickly the other person is at fault, your case will move much faster than if there is a fight over who is at fault.

Regardless of the specifics, though, we move your case as quickly as possible.



Why should I hire your firm?

The Law Office of Roberto Salazar has been around over 30 years. We care about our clients. We have a proven track record. We've gotten great results for many, many people. We're local, we're available, and we're going to treat you with respect. We're going to be there with you every step of the way.

We are going to work hard to get you a great recovery for what you have gone through. Our experience and dedication lead to real results. One of our cases involved a car manufacturer that was putting weak tires on their vehicles, which caused them to roll over. My client was a passenger in one of their vehicles. The tire failure led to a car crash where the roof of her car was crushed, which severely injured her. We took her case and were able to obtain a recovery of over 12 million dollars.

Another one of our cases involved a trucking company with a poor vetting history. The trucking company hired a truck driver who had a poor driving record. Despite the bad reputation of the trucking company and its drivers, a broker hired it anyway. Unsurprisingly, the driver had a major trucking crash, killing one of the passengers in a car. We represented the victims in the car and were able to get the full one million from the trucking company's insurance. We also went after the broker and showed that it should not have hired that trucking company. In the end, we were able to get that family an additional three million dollars on top of the initial one million from the trucking company's insurance.



A third case involved an oilfield truck driver who was drowsy and did not see a stop sign. He ran the stop sign and killed the driver and passenger who were on their way to work. The driver was survived by his widow and three children. We were able to recover five million for that family.

Not every case will be that big. Most settle in the tens of thousands of dollars and cover the damage and moderate injuries people suffer. However, regardless of whether your case is a multimillion dollar one or little more than a fender bender, we are going to work hard for you and get the full value you deserve for your claim.

Why This Matters to Me Personally

There's a lot of information in this chapter, and I want to finish it by answering a very basic question: "why does this matter to me personally?" After all, lots of people reading will wonder why I care so much about helping those who have been harmed or who are in trouble when they aren't currently my clients.

The reason I care, and the reason I became a lawyer, goes back to my father. He was injured in a work-related injury when a coworker hit the wrong switch. The coworker was supposed to hit the switch for the light, and instead, he hit the switch for an electric motor that my dad was placing on the bed of a truck. The heavy motor wasn't properly placed yet. My dad tried to stop the motor from falling on his foot and leg and shattering them. In so doing, he dislocated and severely injured his right shoul-



der. That injury led to a series of unsuccessful and painful operations.

I was the one who would accompany him to his doctor and to his lawyer. I saw firsthand the pain and suffering that my dad went through because of somebody else's negligence. I saw how much he needed help, and I saw how our lawyer provided that help. I was so impressed by how the lawyers we hired helped my father and our family, how they cared about us and made sure we were treated fairly.

Having gone through that, I'm more understanding and empathetic about what my clients go through. I understand their pain and their frustration.

That event is ingrained in memory. That is my motivation and my passion for helping others. I do it through the practice of law, and I am doing it here, in this chapter.

With that in mind, I hope this advice is helpful, and I hope you take it to heart. Following the above advice can make all the difference in the success of your claim. I've seen far too many Juans in my career, and I don't want to see any more.

Instead, I want to see more cases like Maria's, who followed the above steps after her car crash and called an ambulance, waited for the police, took pictures of the vehicle that hit her, wrote down the names of the witnesses to the crash, told her medical providers about all of her injuries, and followed their advice. We were able to recover full compensation for her.

However, no matter how prepared you were for your car crash—whether you got everything right like Maria or made some major mistakes like Juan—I want you to

come to my office, or the lawyer of your choice, when you need help.

We're here to help you, and when you call, that's exactly what we'll do. If you're looking at some major car damage or some major medical expenses after your car crash, we know how to help. You don't have to try to take care of this on your own. You don't have to go another day not knowing what to do. Just come to us, or the lawyer of your choice, and we can start helping you today.



Answering the Most Frequently Asked Accident and Attorney Questions

By Steven Schwartz

When you've been in a serious accident and have suffered a serious injury, you are often in the most desperate moment of your life. It is in such moments that you need to know you have the right information, so you can make the right decisions going forward. Moving from that accident/injury to full physical and financial health again can be a long road, and if you don't know the way forward, you are liable to make a mistake.

That's why you really need to have a lawyer on hand that you can trust. But that just leads to another problem: How do you find the *right* lawyer?

Finding that information and that attorney can be very overwhelming in that moment. When you're in such a distress-

ing position, you don't want to spend your time googling and searching through dozens and dozens of results. You don't want to have to guess which lawyer is telling you the truth, and which one is just trying to get your money.

I believe you have the right to those answers, not just after an accident but right now. At my firm, our goal is to always be the first resource for anyone dealing with the consequences of an accident.

With that in mind, I've put together some of the most common questions accident victims have, and I've provided answers below. Now, you don't have to go looking online for what to do next. You can read this chapter and know right away.

My Story

Before we get into the main questions I hear from my clients, I want to address the first ones that might have popped into your head when you started reading this chapter: Who are you and why should I trust you?

That's a fair question, and it deserves a fair answer. So, to begin with, my name is Steven Schwartz. I've been a personal injury attorney since 1991, but my connection to the law goes back much further than that. In fact, it goes back to my early childhood.

My father is a personal injury lawyer. He had an office in the same location at 6 Beacon Street in Boston for almost 30 years. As a busy lawyer who is passionate about taking care of his clients, he would often go into work on Saturdays. I would always look forward to such days. As a



little kid of five or six, it was a big deal to take a ride into Boston for anything, especially going to work with my dad, who was, and still is, my hero.

We would come into the office to meet clients. It was really my first experience seeing people who had been hurt. Some of them were in wheelchairs, others came in on crutches. I was fascinated watching my father comfort these people and provide them with the help they clearly needed. Because I was good about keeping quiet and listening, he would let me sit in the room and watch as he carried on his work. He just had a way of soothing his clients' anxiety. He could make them feel better, no matter the difficulties they faced ahead.

Such moments were obviously very overwhelming for them. They had physical and emotional injuries, and they didn't know what to do. My dad taught me that the first job of a personal injury lawyer is to listen to your client's concerns and to make that client comfortable, to make sure they understood what had happened and what would happen in the months ahead. It was his job, he believed, to take all that pressure that they were feeling at that time off their shoulders. They would come in stressed and upset, but by the time they walked out, you could see that anxiety was gone. They felt better knowing that they had someone in their corner working for them and on their side.

On those Saturdays, I would pretend that I was doing a new client intake just like he did. He would give me the same pink sheets that he used and would watch me learn to listen, explain, and comfort. I would make up whole accident cases and walk my imaginary clients through the process.



I can't remember a time when I didn't admire my dad and wanted to do something just like him. I knew even at five or six I wanted to help people like he did.

That feeling remained with me and inspired me even in my adolescence. While most 16-year-olds are focused on hanging out and having fun with friends, my parents suggested I do something a little more meaningful with my junior year of high school. They signed me up for a program called Amigos de las Americas, which sends volunteers to places around Mexico and Central America to perform all kinds of needed human services. Some provided eyeglass distribution to those who didn't have them. Others worked on reforestation efforts. Others still performed inoculations against diseases. And then, there were those who built latrines for communities. That's the job I got.

For my entire junior year, I trained for this work every week. I had to pick up a lot of Spanish. I also had to study how to build a latrine and, more importantly, how to teach the people of that area how to build and maintain such structures for themselves.

The place I was sent was not on the tourist route. I was hours from anywhere, in a town so poor, they said they couldn't afford to house and feed us. I had to convince them to keep us while we got the work done.

We stayed for two months. We built the latrines and taught the locals about the importance of sanitation. Until then, they hadn't known about the importance of boiling water. They had no electricity; they had no running water. Living there was like being in another world.



I got sick, of course. And, I got dirty. But, for all the difficulties, it was one of the best experiences of my life.

Learning that the people in that area were just good people in tough circumstances reinforced the lessons my father had taught me since childhood. It left me with a deep feeling that I needed to commit my life to helping those who needed it most. I still feel that today.

That commitment could have taken me in many different directions—for a while I thought it would take me into the medical field—but in the end, I settled into the same work as my father: personal injury law. I realized that while I can't take an accident back, I can put that injured party and their family in a financial position so that they get the medical care and/or permanent assistance they need.

Answering Your Most Important Questions Now

That's enough about me. This chapter isn't really about me, it's about you and your questions. Below, I've listed some of the most common questions I hear when people come into my office, and I've provided the answers they so dearly need.

Do I need a lawyer?

A lot of people try to handle their claims on their own. They do so partly because they don't understand exactly what a lawyer does. Unfortunately, they also do it because they don't understand the law itself.



Consider this. Let's say you've been rear-ended at a red light. Many people assume the other person's insurance should pay all of your damage and medical bills. After all, they hit your car. So, you submit your bills there. The only problem with that is it isn't how the process works in Massachusetts. That can lead to major problems in your claim.

Those problems go beyond submitting the claim properly. People also don't know how to prove the severity of their injuries. How you describe your injuries and how you prove them can significantly affect the compensation you are offered.

You may not even know how serious your injuries are. Sometimes, people have a headache, and they don't know that they should go to a neurologist to find out how serious the issue is. Or, if they have a brain injury, they don't know that they should go to a neuropsychologist to find out the extent of the damage. They just don't know which specialist to see or how to deal with the medical issues they are experiencing.

In other words, while the claim may seem very straightforward to you, the situation may in fact be far more complicated, and taking a wrong step now can have profound consequences.

Even if you could navigate these issues successfully, you'd still have to know how to take on the insurance company. Insurance companies are large national enterprises. While their TV commercials may be cute and make it sound like they want to take care of you, the reality is they are like any other business: they want to make money. And to do that, they try to limit how much they pay out to people like you. If they can make you take 50 cents



for every dollar you deserve for your medical needs, they'll do it. If they can deny your case outright, they'll certainly do that, too. Remember, as a plaintiff bringing an action it is YOUR job to prove your losses, not theirs.

Most people who try to handle their claims on their own are simply not equipped to handle the aggressive tactics the insurance companies will use to make sure they limit their exposure.

Oftentimes, an insurance adjustor will reach out to the victim as soon as possible to make sure that person hasn't had time to contact an attorney yet. They may come and knock on your door—even without an appointment—and they'll be the friendliest person you've ever met. They'll say, "Look, you don't need an attorney, we can take care of this. We'll take good care of you."

They do this not to comfort you, but to convince you to trust them to handle the claim with them alone. When you do that, they've got you right where they want you.

Unfortunately, I have had plenty of victims inquire of my office about the settlement they agreed to with the insurance company on their own. They tell me it was not enough. They can't cover their bills. They didn't get enough to cover their wages lost. They can't afford to cover their long-term health issues. But at that point, they've already signed the paperwork; they've already agreed to take the settlement. At that point, I can't do anything for them.

That's why it's so important to contact an expert lawyer immediately after an accident. The longer you wait, the more likely you are to make mistakes, some of which may not be reversible. In fact, there are action items that



should be done at the very beginning of your claim to make sure it is set up properly for success.

With a legal expert on your side, you'll have a guide who can help you through the medical as well as the financial difficulties ahead. We'll help you find the right specialists. We'll make sure you get complete medical treatment for all your injuries. And then, we'll make sure the insurance company is held responsible for those costs, as they should be.

Which leads me to one final reason to get a lawyer: *you will likely get more from your settlement.* The Insurance Research Council did a study on this and found that the average settlement was about 3 ½ times larger when the injured person had legal representation. In other words, it really does make a huge difference.

How do I find the right lawyer?

Once you recognize you need a lawyer, there's a whole new problem that arises. Now, you need to find a good one. There's a lot of competition in the personal injury area, and unfortunately, not all the options are of the highest quality. We've all heard the term "ambulance chaser," and there are too many lawyers for whom that's a fair description.

At the same time, that term also gives a lot of very legitimate firms a bad name. Like in any profession there are plenty of great personal injury lawyers dedicated to doing the best job possible. There are also plenty of lousy injury lawyers with little interest in helping you out and who only want to get some money out of you.



The thing is, lawyers are not like refrigerators. If you are shopping for a new fridge, and you find a particular model that you like, there's nothing wrong with going online and finding a place that sells it for the cheapest price. After all, you're getting the exact same thing. With a lawyer, there's no way to get the same product. With lawyers, it isn't about price. It's about quality. Searching for price just isn't a viable way to find a lawyer. You really do get what you pay for.

To begin with, most of us work on a contingency, so we don't get paid unless you win. At that point, our fees come out of the insurance proceeds at the end of your case. Beyond that, the amount you pay a lawyer matters less than how much they get you for your settlement. At the end of the day, what matters is what *you* receive. A better lawyer may or may not cost more, but they can vastly increase how much the insurance pays you.

So, obviously, you've got to figure out how to tell the difference between the good lawyers and the ambulance chasers. But if you aren't looking for a lawyer based on how much they cost, how do you find that good lawyer you need?

The first thing to do is to reject the impulse to go with the very first attorney that you speak to or to go with the attorney that works around the corner from you. Often, people get sucked into becoming the client of the first attorney they look at. They might see a little section on a website that says, "Do you want to speak for free to an attorney now? Fill out this form." That person has questions, so of course, they fill out the form.



The injured victim will then get a call after a few minutes, and that lawyer will make the whole process sound easy. Like the insurance adjustor, they'll seem as friendly as can be. The next thing you know, the attorney isn't focusing on answering questions but very aggressively trying to get that person to sign up as their client. They tell them time is of the essence. They have to start moving on the case now. There's no room for hesitation if they want to get a settlement. After such a serious accident, many people just give in to this, whether that's the right lawyer for them or not.

What that lawyer doesn't tell this person is that they actually have plenty of time to investigate lawyers and make a claim. Most states allow you to file a claim anytime within two or three years after the accident. While it is important to secure competent counsel soon after an accident, if nothing else, you certainly have a few days to do some research to make a proper choice.

So, take that time and use it wisely by researching in a smarter way. By all means, visit some lawyers' websites, but do more than just scroll through. Some attorneys may have a fancy website that looks good, but that doesn't really tell their story. Instead, use the information you find to make a better, more informed choice. To do that, look for things like credentials, reputation, and reviews.

This information is pretty widely available online these days. You can easily find out if lawyers are certified board members anywhere, whether they have won any meaningful awards, and whether they have been acknowledged by their peers.



At the same time, just like with restaurants, lawyers receive lots of client reviews. So, if you see a hundred positive reviews, there's a good chance that lawyer is worth your attention, just as you would expect that restaurant to have good food and good service. We're in the service industry, and there are plenty of review sites—from Google reviews to legal sites like Avvo—where you can find out how real clients feel about their former attorney.

From there, look at the kind of information put out on the site. What a law firm offers its audience can say a lot about their values. For instance, on our website we make a point of putting out educational pieces, frequently asked questions pieces, and other articles that will be helpful for potential clients. We do this so you know we're not just here to convince you to become a client. We're trying to help you out. We're trying to educate you. Even if you don't hire us, we want you to take advantage of the free, valuable information we have to offer.

Finally, when you need to narrow down to that ideal law firm, make sure to get as much information about their experience as possible. If someone has been practicing personal injury for a while, they probably have at least a few decent cases that they can showcase on their website, but again, that doesn't necessarily tell the whole story. So, find out directly just how much experience that lawyer has with cases like yours. This experience shouldn't just be with general personal injury cases, but with cases that involve your circumstances and your injuries. You want to know if that particular attorney knows about your particular injury and how much experience they have with



it. You want to know how many cases they've settled like yours and what their success has been.

In the case of our firm, because we've been around for over 50 years, we don't just have five or ten successful cases to talk about in our history. We have thousands of them. With 185 years of combined experience, you know we've seen it all, and more than once.

There's no substitute for experience like that. When you've negotiated hundreds of fractured arm cases, you understand the medicine better, you understand what the insurance company views on that injury are, and you understand how they defend against claims. Basically, you understand the case and how to get the most from it for the client.

You also want your lawyer to have a lot of experience dealing with your particular at-fault insurance company. Every insurance company has different strengths and weaknesses, and when you've dealt with these same companies over and over again, you know what they need to justify paying more on a claim. We know that one particular company demands stronger medical documentation. Another wants to hear directly from our clients. We know what they all want because we've faced off against them so many times. That kind of experience really does make a difference when it comes time to get you maximum compensation for your injuries and all you have gone through.

How much money will I receive?

Understandably, people want to know the answer to this right up front, but you should be wary of any lawyer who



will give you a figure so early in the process. Some lawyers may tell you a dollar figure because it makes you feel good, and it reassures you. But most of the lawyers who give a number do it because they want you to sign up with them as soon as possible.

Then, they pull a bait and switch. After you've signed up, your lawyer will say, "Well, I told you your case was worth \$20,000, but now that I'm looking at it, there are some issues I didn't foresee." All of a sudden, the case isn't worth what they said. It's worth a lot less.

They expect you to be disappointed but not disappointed enough to leave them. Keep in mind, you always have the right to switch your lawyer. In that respect, we're no different than plumbers or electricians. If you are unsatisfied, you can always find someone else to take on the job. However, many people don't realize that. They think once they have a lawyer, they're stuck. These attorneys who suggest big paydays prey on that ignorance. It also costs nothing to make the switch. You don't pay any extra attorney fee. Bottom line, you should always be comfortable with your attorney at all times and have the confidence that they are keeping your best interests in mind, not their own.

Instead of going with a lawyer promising you a fortune, trust a lawyer who tells you the limits of what they can know right now. In all honesty, I tell my clients that I would need a crystal ball to evaluate value so early on in the process. Instead, I tell them, "Most cases like yours are usually worth in the thousands, but I can't tell you what it's worth at this point."



At the same time, I make sure to walk them through the things that will help us find out the value of their case. I ask them about things like how long their treatment will take, how long they expect to be out of work and losing wages, and if they will have any permanent health issues. Most times, they don't have answers to those questions, and I tell them that is the kind of information we need to have before we can talk realistic numbers.

Even if they do have some answers, though, I still couldn't give them a good figure because we haven't yet investigated liability. That's the legal word for "fault."

Let's say you walked into a grocery store, slipped on spilled orange juice, and fell. As an innocent victim, you may think that basic scenario means you are entitled to compensation, but the truth is more complicated than that. Before we can look for compensation, we have to find out whether the store is responsible. It's not enough that it happened on their property, you aren't at fault, and the store has insurance. We have to be able to say that they have been negligent or committed some kind of wrongdoing.

So, we have to look into how long the juice was on the floor. This is important because we have to be able to show that the spill was there long enough that the store knew about it—or should have known about it—and cleaned it up. If it had been there for just 20 seconds, it's hard to say the store did anything wrong. However, if that juice was on the floor for an hour, you could certainly make a reasonable argument that the grocery store was at fault. They have an obligation to try to keep their aisles safe, and they should periodically inspect those aisles to make sure there's nothing on the floor.



Cases aren't always completely cut and dried on the point of liability. Sometimes, there's conflicting evidence about who was at fault. This often shows up in automobile accidents. Drivers may have different interpretations of events. Witnesses may also confuse crucial details. In such cases, the insurance company may agree to settle, but they will only pay 50% of the claim. If we don't know those circumstances on day one, how could we give you a fair value for your case?

Let me be very blunt on this: any attorney who tells you what a case is worth when you walk in the door for the first time is deceiving you. If that happens, walk right back out the door and find a lawyer who will tell you the truth.

How long will this process take and when will I get my money?

Like the question directly above, this one is very hard to answer at the beginning of your case. That's because the lawyer doesn't have complete control over the case timeline. It is best for us to wait until we get the end results of your medical treatment. What that means is you are either 100% healed or there are no more treatment options available to improve your health. We have to wait because we want the full medical picture before negotiating with the insurance company. Otherwise, we may negotiate from a disadvantage. If a medical issue that at first looked temporary later proves to be permanent, we need to know the final diagnosis to get you full value for that in your compensation package.



Since every accident and every injury is different, it's impossible for your lawyer to say how long your treatment should take. It could be two months, or it could be a year and a half, if it is a particularly serious injury. That is an issue your doctors will determine throughout the healing process.

Even after you reach a medical end point, though, we may still not have a perfect idea of how long your case will take to resolve successfully.

When you are done treating, it's at that point we put a demand package together. Usually, that involves gathering the final medical documentation which we then send to the at-fault insurance company. Usually, it takes them about four to six weeks to evaluate that demand package and to come back to us with an initial offer.

Only once we have that initial offer can we really give you a better idea of how long your case may take to complete. That offer will give us a good idea how the insurance company views the case and whether they think it's a strong case or not. If they give a very low offer, I know we've got a lot of work to do, and there may be a long road ahead. If they're reasonable from the beginning, obviously they're listening to us, and maybe I can wrap it up within a few weeks.

Each case is different. A case with minor injuries and straightforward liability may take just a couple months after treatment concludes. Otherwise, though, it's hard to say early on how long a case is going to take. All I can tell you is that our goal is to get it done as quickly as possible while still securing you full compensation.



Again, beware of lawyers who give you easy, optimistic answers to this question. As with the value of your case, they can't possibly know the answer to this question yet. They are likely just trying to tell you what you want to hear so they can get your business.

How do my medical bills get paid?

Beyond the injuries themselves, there's a lot of added stress that comes from an accident over paying medical bills, particularly for those people with families to provide for. I always say a case affects not just the injured victim, but a whole family. The whole family will struggle financially and emotionally. That's why we need to make sure we take as much stress off your shoulders as possible while we pursue your compensation.

To answer this question, we first have to talk a little about how insurance works in Massachusetts, where I practice.

Massachusetts is what's called a no-fault state. What that means is the medical bills are paid for by the insurance company that covers the car that you're in (with a few minor exceptions). So, regardless of who's at fault, the car you are in will typically pay your initial medical bills. You could be driving your car, take your eyes off the road, and hit a tree. The car insurance of the car you're in is going to pay your medical bills, even though you're 100% at fault for that accident. If you're stopped at a red light, and you get hit from behind, it's still going to work the same way.

That's a complicated enough concept, but the system only gets more complicated from there. What happens



next depends on if you have public or private health insurance, or none at all. The car insurance will pay a certain amount before turning the costs over to any health insurance policy. Then, those additional costs—such as deductibles and co-pays—will come back to the car insurance for payment. And there are limits on how much the car insurance has to pay.

All of this can still leave huge healthcare bills unpaid once all the treatment is done. At that point, we have to come in and negotiate those bills into the overall settlement to make sure the injured person isn't out that money. Our goal is to put as much compensation in our client's pockets as possible.

There are just too many scenarios to list here, but just understand that it can be a confusing process that requires skilled representation to ensure that your bills are paid in full. In the end, the system in Massachusetts is complicated, and the best way to ensure you don't end up with a lot of medical debt is to entrust your case to a lawyer experienced in cases like yours.

What can I do to help get me the most compensation possible?

I always tell my clients that our job as lawyers is to handle everything on their case. We fill out all the paperwork and do all the investigation. We obtain the medical records and bills. We make sure everything gets coordinated properly. We do all the talking with the insurance company. The biggest thing a client can do to help is to “do their job.”

And that job is simple: just stick to getting healthy.



What that means is you go to all your doctor appointments. You follow through with all the treatment requirements. You go to physical therapy. You remain focused on getting back to 100% health. That's the most important thing, and that's what we want you to focus your energy on—your recovery. That is the one thing we can't do. At the end of the day, your health is most important, regardless of whether there is a claim or not.

This isn't just for your health, though, it's also for your case. There's nothing worse than the defense counsel asking questions like, "Well, the doctor here asked you to do home exercises. Did you do them?" "No, I didn't really do it." Not following doctors' orders can de-legitimize your claim.

Beyond getting to all those appointments and following the doctor's suggestions, there are a couple of other things you can do to improve your case. First, when you go into the doctor's office, you should tell the whole truth about your condition and focus on what's bothering you. Maybe your back is feeling better, but your neck is still killing you. Make sure you communicate everything that's wrong, because the doctor is going to write that down in his or her notes, and that, ultimately, is what the insurance company is going to see. So, those notes make a difference. Don't go in and try to be a hero. Don't say, "I'm doing okay" if there is anything wrong. The insurance company will already try to minimize your claim. Don't help them by downplaying your injuries to your doctor because you aren't a complainer. Don't exaggerate, but be honest.

At the same time, we want you to record and share your story with us as you go through this difficult period. If you love going to the gym and now you can't, it's



an important aspect of your life which has turned into a loss of enjoyment. If you have young children and you can't play with them like you did before while you recover, that's time that you will never get back. If you can't carry the groceries up the stairs anymore without the help of a neighbor, that tells a story and gives the other side an idea of what you're going through.

We ask our clients to keep a diary to record these traumatic and specific moments. It helps them to put it down in writing, and it can also help us as we pursue their claims fully.

Your Legal Resource

When a case resolves, I tell my clients that I hope we've done more than just a good job for them. While the amount of the settlement is important, the process along the way is just as critical. I hope that we've shown them the care and concern they needed during those difficult moments. I also encourage them to come back to us in the future for any legal issues they have. If we can't help directly, we most likely know lawyers who can. With the amount of time we've been in practice, we've crossed paths with many attorneys in different disciplines that WE trust. No matter the legal difficulty, we know someone who can help. So, if they ever have a legal question, we'll find a way to answer it. We always provide free consultations. It'll never cost a cent to pick up the phone to have a confidential talk with us.

I do that because our firm is built on a belief that we should be a resource for everyone struggling with some



part of the legal system. While I'm no longer in the business of teaching people how to build latrines and to stay clean and healthy, I still consider myself in the business of providing the most important answers people need in difficult moments in their lives.

For most attorneys, when a case is over, that's the end of their relationship with a client. That's not how I think. Unless someone tells me that they don't want to hear from us anymore, I'm going to keep checking in and sending them free and valuable information that can be helpful to them. We send out newsletters with seasonal tips that our former clients really appreciate. We also make a lot of materials available for free including a book called *I Was Injured in an Accident, What Do I Do Now?* and a booklet with 56 Frequently Asked Questions.

In the end, we do this because we want to be more than just the lawyers you call AFTER an accident. We want to be a resource that prepares you before that accident ever occurs. We want you to know what to do and how to act, and we want you to know that there are professionals in the legal industry out there you can trust.

That's the same reason we offer those free initial consultation calls for anyone looking for answers to their personal injury law questions. I make sure to take the time to answer all the questions my potential clients have, so that they leave our call more informed and more aware of their situation, whether they choose to work with me or not.

So, if you've been harmed in an accident, please take advantage of these resources. Read this chapter, read our books, and call us so that we can put you on firmer legal ground. We want to be your legal partners for a lifetime.



Cars, Trucks, Bikes, Motorcycles, and Nursing Homes:

What You Need to Know Now

By Marc Shuman

Marc J. Shuman & Associates, LTD. began representing clients in the Chicago area in 1996. Since then we have worked with more than 15,000 victims of accidents, incidents, and abuses. We've helped those victims recover more than \$60,000,000 from those whose negligence harmed them.

That kind of experience leads to a lot of powerful lessons about our daily lives. These include how best to protect yourself after a car accident, how to deal with potential semi-truck accidents, the major causes of bicycle accidents, and the alarming risks of nursing homes.

The lawyers at our firm have more than 77 years of combined experience. We have answered hard questions about safety and about the law hundreds or thousands of times. We thought it was time to share some of what we know. We want everyone to be better prepared for the accidents and negligence that many people experience at some point in their lives.

We intend for this to be a helpful guide that will make it easier for you to avoid mishaps outright and protect yourself if they ever do occur.

Car Accidents: Important Do's and Don'ts

We begin with car accidents, one of the most common and most serious kinds of accidents we deal with. In Illinois in 2016, there were a total of 324,473 vehicle crashes and 1,000 crash-related fatalities. Thankfully, many accidents are minor. But no matter how minor, a car accident can be a real shock. One minute you're driving along, trying to get to your destination. The next minute your mind is reeling in the aftermath of a collision.

It's easy to overlook things after a wreck. You may never have previously been in an accident. You may not know what your rights are. You may never have been taught exactly what to do (or not do).

Our expert attorneys have compiled a list of dos and don'ts to follow after an accident, including information about filing insurance claims. Follow these important steps until you can secure appropriate legal representation.



Car Accident Do's

Do: Take care of yourself first if you are hurt and need help.

Do: Call the police to report the accident.

Do: Get information from others involved in the accident and from witnesses, particularly if the police do not come to the scene of the accident. Take down the names, addresses, phone numbers, email addresses, and insurance information of the other drivers. Also, for each vehicle involved, note down the license plate number, make, model, and color. Take down information from people who may have contributed to the accident (for example, a third driver who caused the person who hit you to swerve). Also collect witnesses' names, addresses, emails, and phone numbers.

Do: If you are physically able to do so safely, take pictures of the damage to your vehicle, the vehicle(s) that struck yours, the scene of the accident, and any injuries sustained by you and/or your passengers.

Do: If you've been injured, seek medical attention within 24 hours. This will help to preserve your claim.

Do: Notify your car insurance company right away after the accident. Failing to notify your insurer in a timely manner could result in the denial of your claim. Take notes while on the phone with the claims adjuster or anyone else involved in the claims process. Write down the description and details you give about the accident. Changing the details of your story lat-



er because you're having a hard time recalling what happened could result in your claim being denied. Get the names, phone numbers, and email addresses of all claims adjusters and other representatives you speak with.

Do: Follow your doctor's orders for treating your injuries. Not doing so could impact the amount of compensation you receive.

Do: Talk to and retain an experienced injury attorney. A seasoned car accident lawyer knows how to get you the greatest amount of compensation after an accident. The sooner you retain an attorney to represent you and your interests, the better he or she will be able to protect you.

Car Accident Don'ts

Don't: Admit fault. In the wake of an accident you may be shocked and confused. Even if you think you know what happened, an investigation may uncover details you weren't aware of. Apologizing for the accident or admitting fault may hurt your claim if it turns out the other driver was actually at fault.

Don't: Negotiate with the other driver(s) involved in the accident by accepting an offer for payment or offering an amount yourself. It's important to follow the insurance laws of your state. Your claims adjuster and attorney are properly trained to evaluate the situation. They can determine how the claim should be paid within the law. If the other person tries to negotiate with you because he or she doesn't have insur-



ance, this is a red flag. Let your insurance company and/or attorney pursue that person for compensation.

Don't: Miss doctor appointments or avoid getting treatment for injuries related to the accident. This can only hurt your chances of getting full compensation for your claim.

Don't: Provide a written statement to any insurance company or representative until, or unless, you have been advised to do so by your attorney. It's best to first consult an attorney to help preserve your rights. They can ensure you are properly compensated, especially if you sustained a personal injury.

Distracted Driving Accidents

Distracted driving is incredibly prevalent these days. The term “distracted driving” simply means doing something else that takes your attention away from driving. Distracted driving can involve changing the radio station, talking to your kids, eating, or putting on makeup. Distracted driving accidents are a serious and ongoing problem, especially in recent years with the explosion of mobile phones and the phenomenon of texting while driving.

Distracted Driving Accidents Are Common

Distracted driving accidents are a common cause of death and injury in the United States. Vehicle crashes involving a distracted driver kill approximately 8 people and injure 1,160 others every day, according to the Centers for Disease Control and Prevention.



The three types of distracted driving include:

- **Visual:** taking your eyes off the road
- **Manual:** taking your hands off the wheel
- **Cognitive:** letting your mind wander away from driving

Texting while driving is particularly dangerous because it involves all three functions—taking your eyes off the road, taking your hands off the wheel, and thinking about the message rather than driving.

Preventing Distracted Driving

Many states, including Illinois, have enacted laws banning activities like texting while driving. Illinois has gone further, banning the use of all hand-held devices while driving. Hands-free technology such as Bluetooth and headsets are still permitted. However, according to the Illinois Secretary of State, cell phone or wireless use while driving—including hands-free devices—is prohibited for drivers under the age 19, except in the case of an emergency to contact a law enforcement agency, healthcare provider, or emergency services agency.

Cell phone use is not permitted while driving in school zones or highway construction zones. It is also prohibited for novice drivers.

To prevent becoming distracted while driving, do the following:

- Pull over to a safe place to talk on the phone, send a text message, or send an email.



- Know how your climate controls, sound systems, and other devices work. Never take your eyes off the road to adjust these things. If you must make adjustments, do so by touch.
- Never adjust your seat while driving. Pull over to a safe place if you need to adjust your seat height or distance from the pedals.
- Avoid eating, drinking, and smoking while driving. Never groom, apply makeup, or try to read or write something while driving.
- Pull over for children. If your kids are arguing, crying, or hungry, pull over to tend to their needs. Interaction with kids is a leading cause of distraction.

Semi-Truck Accidents

Not all accidents are caused by small vehicles such as coupes or sedans. Far from it: many accidents involve the large, powerful, and dangerous semi-trucks we all see on the road every day.

Accidents involving large trucks are serious and often deadly. Our experienced truck accident lawyers recognize that handling these cases requires a thorough understanding of commercial vehicle regulations on both the federal and state levels.

Companies are required to follow Federal Motor Carrier Safety Regulations concerning their equipment and their drivers' hours of service. But these regulations are routinely violated. For instance, a driver may be asked



to continue operating his rig after the permitted hours, which can lead to driver fatigue and error.

Records often reveal serious and even fraudulent violations of safety regulations after an accident. And yet trucking companies are only required to maintain accident records for six months. This can make it extremely difficult for an injured person or his survivors to prove the trucking company was negligent. For this reason, you should retain an attorney as soon as possible after being the victim of a truck accident. Our experienced truck accident lawyers will represent your interests and help you get the compensation you deserve after a truck accident, whether you are the victim or a surviving family member.

The Facts about Semi-Truck Accidents

In 2014, there were 3,660 fatalities from accidents involving large trucks, according to the Insurance Institute for Highway Safety (IIHS). This includes truck driver deaths as well as deaths of passenger vehicle occupants, motorcyclists, bicyclists, and pedestrians. Ninety-seven percent of those killed in accidents involving a large truck and a passenger vehicle were occupants of the passenger vehicle, according to the IIHS. The sheer size of semi-trucks and other large trucks puts passengers of smaller vehicles at a serious disadvantage in a collision.

In Illinois in 2014, 6.7% of all crashes involved large trucks (19,945 in total). The Secretary of State reports that 71.7% of crash fatalities (and 74.3% of non-fatal injuries) occurred in crashes involving large trucks.



Choosing the Right Truck Accident Attorney

A semi-truck accident can be frightening, traumatizing, and confusing. If you have been involved in a large truck accident, you have the right to legal representation. You should act quickly to secure the services of an experienced attorney. In the immediate aftermath of an accident, the insurance representatives of the business that employs the truck driver will initiate an investigation. They aim to minimize the liability of the trucking company. You need to retain experienced legal service quickly too, in order to protect yourself.

Moreover, truck accident cases differ from typical personal injury cases in that the driver's company is often named as a defendant. This means you need an attorney who can deal with large corporations and insurance companies.

Most large truck accidents today result from driver error, mechanical failure, inspection errors, or intoxication. Whatever the specifics of your case, you need the right legal representation at your side to recover compensation from the responsible party. Our truck accident lawyers will fight to ensure you receive the maximum possible remuneration for pain and suffering, injuries, and property damage losses.



Cycling Accidents: What Are Some Common Injuries and Causes?

After learning so much about the risks that come with driving, you may think it's safer to just ride your bike. While cycling is a wonderful and healthy activity, there are still real risks when you hop on and pedal off.

In fact, cycling accidents are some of the most serious types of crashes on the road. When a cyclist comes face-to-face with a motor vehicle, the results are often grievous. In 2014 alone, the National Highway Traffic Safety Administration reported approximately 50,000 cyclist injuries.

Therefore, given the severity and prevalence of such accidents, it's critical to educate yourself about proper cycling safety. It's also important to know your legal rights. Cyclists who have been involved in a cycling accident can often sue for damages. For those who face significant medical bills and lost income, a monetary settlement can mean the difference between financial ruin and the road to recovery.

Common Causes of Cycling Accidents

Cycling accidents are caused by both driver error and cyclist error. According to the CDOT, the most common cyclist error was riding against traffic. The most common motorist error was failing to yield.

Cyclist error is responsible for some of the nation's accidents. But drivers bear a great responsibility. All too often, reckless, distracted, or aggressive drivers cause serious harm to cyclists.



Despite efforts to educate motorists, many still refuse to share the road. That means that even cyclists who follow all of the recommended safety precautions—such as wearing a helmet, long sleeves, and long pants—are at high risk of severe injury.

Bicycle Accidents in the Chicago Area

Although Chicago boasts some of the best bicycle accommodations among the nation's large cities, cycling accidents remain a serious problem. With a 150% increase in the number of cyclists traversing the city streets since the beginning of the 21st century, bike safety has become more important than ever.

Unfortunately, bike accidents remain common in Chicago. In fact, they are becoming more frequent, at least as a percentage of total traffic crashes. According to the Chicago Department of Transportation (CDOT), 32 cyclists died between 2005 and 2010. Nearly 9,000 sustained injuries. Chicago has become more bicyclist-friendly in recent years and added many more bike lanes. But these statistics show how risky bike riding can still be, even here in the Windy City.

Common Injuries Sustained in Cycling Accidents

Injuries sustained in cycling accidents can be particularly serious. The severity depends largely on the speed, the tire size of the vehicle involved in the accident, the place of impact, and the type of impact. Some of the most common cycling injuries include:



- Head trauma, including concussion
- Paralysis
- Spinal cord injuries
- Broken bones
- Herniated discs
- Amputation
- Minor cuts, scrapes, sprains, and dislocations

Motorcycle Accidents

It is widely known that motorcycles are a particularly dangerous form of transportation, and the statistics in Illinois further prove that point.

In Illinois in 2014, 1.2% of all crashes in the state were motorcycle crashes (3,400 total). However, 13% of all traffic fatalities came from this small percentage of accidents. Those most at risk of a motorcycle accident are young men. Ninety-two percent of the motorcycle operators involved in these crashes were male, and 35% were ages 21 to 34.

Busy streets are a particularly dangerous place for motorcycles. Cook County (the home of our beloved Chicago) is where 34.2% of all Illinois motorcycle crashes occurred.

Meanwhile, many accidents could be avoided by motorcyclists driving more responsibly. The 2014 crash statistics show that 13.2% of all motorcycle crashes were due to exceeding the speed limit or driving excessive speed for



the road conditions. While 6.5% of other motor vehicle crashes were crashes into fixed objects, a full 12.4% of all motorcycle crashes were. Additionally, 44.1% of all motorcycle-related crashes involved only the motorcycle itself.

However, while many motorcycle accidents involve mistakes and choices made by the motorcycle operator, that is not always the case. 11.9% of motorcycle crashes were a collision while the motorcycle was traveling straight when the oncoming vehicle made a left turn.

Nursing Home Abuse: What It Is and How to Recognize It

Before we conclude this chapter, we feel we would be remiss in not discussing one of the great concerns we have for the Chicago community, our state of Illinois, and the whole country: the neglect and abuse that takes place in nursing homes.

Every year, millions of families must make the difficult decision to place their parent, grandparent, spouse, sibling, or other relative in a nursing home or other care facility. For many families, this is the best way to ensure that their loved one's medical and day-to-day needs are met.

The abuse or neglect of a loved one by nursing facility staff can feel like an enormous betrayal. When the very people you entrust with the care of your family member are responsible for your loved one's abuse or neglect, legal action may be your best hope for justice.



While prevention should be a key part of reducing abuse, until widespread societal measures are implemented to prevent abuse and neglect in nursing home facilities, legal action against the perpetrators is the best way to take action when abuse occurs.

Patients have rights. An experienced nursing home abuse attorney like the professionals at Marc J. Shuman & Associates, LTD. can help you get justice for your loved one.

America's Aging Population

America is getting older, increasing the need for nursing home and assisted living care. As of 2013 (the latest year for which data is available), the Administration on Aging tells us there were more than 44 million people age 65 and older in the U.S. According to the National Center on Elder Abuse, more than 40 percent of people over the age of 65 will require nursing home care at some point in their lives. Many others will require care in assisted living or another elder care facility.

The Facts about Nursing Home Abuse

Sadly, millions of elderly and vulnerable Americans age 65 or older are abused in some way each year. One study by the Paraprofessional Health Institute found that 44 percent of nursing home residents reported being abused, while a shocking 95 percent said they had been neglected or had seen another resident neglected.



These alarming statistics highlight how common elder abuse and neglect are in our nation's nursing care facilities. For every case of reported abuse, many more go unreported.

Types of Abuse

Most abuse is physical in nature—such as pushing, grabbing, and shoving. Emotional abuse, financial exploitation, and sexual abuse are also common. Common signs of physical abuse include:

- Unexplained bruises, cuts, abrasions or burns
- Broken bones
- Pressure marks
- Torn or bloody clothing

Identifying Nursing Home Neglect

While the signs of physical abuse such as unexplained cuts, bruises, burns, and broken bones are relatively easy to identify, the signs of neglect can be more subtle. Neglect can come in many forms, including:

- **Emotional or social neglect:** This can include ignoring residents, leaving them alone for extended periods, treating them unkindly, or depriving them of social interaction and activities with others.
- **Neglect of basic needs:** This can include failing to provide reasonable food, water, a hygienic environment, or necessary assistance.



- **Personal hygiene neglect:** This can include failing to provide residents with adequate baths, assistance with basic hygiene, or adequate help with bodily functions.
- **Medical care neglect:** This can include failing to provide residents with adequate medical care for issues like bed sores, infections, wound care, diabetes care, cognitive care, or physical therapy. It can also include not providing proper medication at the prescribed intervals.

Awareness is one of the most powerful tools to help identify and prevent ongoing neglect in nursing home settings. Be aware of the following signs:

- Soiled clothing or bed linens
- Unsanitary conditions
- Malnourishment/weight loss
- Dehydration
- Medication mistakes, including improper administration of medications
 - Withdrawn behavior
 - Bedsores or pressure ulcers
 - Increasingly strained or hostile relationships with nursing home staff
 - Environmental hazards, such as slippery floors, poor lighting, dangerous electrical systems, unsafe furniture in patient rooms, and unsafe mobility equipment (e.g., wheelchairs)

We hope this information has caused you to feel more prepared in the event a serious tragedy befalls you or someone you love. If you have been involved in a car ac-



cident, truck accident, bicycle accident, or if you know someone who has experienced nursing home negligence, Marc J. Shuman & Associates can help. We are eager to assist victims of negligence and abuse in the Greater Chicagoland area.

Your suffering doesn't have to be borne alone. We know the law, and we know how to help. Reach out to us immediately so we can start reviewing your case right away, **for FREE**.



How Social Media Can Ruin Your Case

By Gregory Herrman

People often find themselves susceptible to stereotypes and preconceived ideas given to them by the media and other outlets. When faced with a difficult situation, simply ask yourself: Who is in your corner? One of the very best things you can do for yourself is to hire an attorney. You should arm yourself with a professional who is specially equipped with the proper information, resources, and experience necessary to help you. You deserve to receive what is duly owed to you—and there are people in this world who will use anything against you in order to prevent that from happening. In a boxing match, you want the very best team supporting you in your corner. Car and truck accidents are no different: Get the best team in your corner.

Social Media

Insurance companies look for any and all opportunities to save money by denying claims and injuries. They will take everyday harmless activities as indications that you are either not hurt or fully recovered. An injury does not prevent you from going to the gym and doing a light workout. An injury does not prevent you from going to a concert and enjoying yourself. An injury does not prevent you from getting under your old Chevy and changing the oil. Unfortunately, insurance companies often see it differently.

Social media can ruin your case. Many people these days use at least one form of social media. We are constantly documenting our lives—especially the fun, cool, good parts of life. We want the world to see how awesome we are. The problem is, once you submit a personal injury claim there is a good chance an insurance adjuster will start watching your social media posts. On large enough cases, insurance adjusters will not only monitor your social media posts but also hire a private investigator to follow you and to take pictures and videos of you. Private investigators are trained and licensed to dig up dirt on you. This is their only job. When you “check in” at a restaurant or other public location, you are inadvertently telling the investigator where to find you. That makes their job too easy. Investigators can also find a way to see and document what you post on social media, even if your settings are private.

What is considered social media, you might ask? According to a Merriam-Webster dictionary, social media are websites and applications that enable users to create and



share content or to participate in social networking. The lightbulb will most likely turn on for you when I start dropping such names as Facebook, Twitter, Snapchat, Meerkat, Periscope, Instagram, Livestreaming, YouTube, etc. Now that we know what we are going to be talking about in this chapter, let us dive in!

Sally

Even if your car is totaled and you have sustained serious injuries, you can easily discredit your case with social media. Take the case of a woman we will call Sally. Sally had a major accident and suffered serious injuries. Pictures are a great way to show an insurance company, a judge, and a jury your injuries—and Sally provided us with many pictures. They were great for Sally’s claim because they showed the full extent of her injuries. We then submitted them to the adjuster handling her claim. Everything should have been great ... but it was not. Later that week, Sally posted the exact same photos that she had sent to us on her very public social media Facebook account. Not good! These were the very *same* photos! Unfortunately for her and her claim, the caption for the photos went something like this: “My boyfriend really did a number on me, and I am now in the emergency room. What a great man. ☺.” This, folks, is a no-no. Not only was this a completely different story from the one she told us—the story that we had turned around and told the insurance adjuster—but now she had ruined her case. There was no coming back from this.



The takeaway from this situation is that you should always keep all your social media platforms *private*, at least while your case is pending. And you should never post anything in any way that could discredit your case. If the adjuster handling your case determines that the injuries you have sustained are not due to the accident in question but to some other activity he saw on your social media account, then you have not only lost your case, but also will not recover what is owed to you. Do you think you can just skip the adjuster and go straight to court and avoid this? Think again! The defense lawyer for the insurance company will generally be able to admit your photos and posts to cross-examine you.

Keep in mind, as long as you are acting consistently with what you are telling medical providers, lawyers, and the adjuster, posting on social media may not be a problem. In the case of Sally, she tried to use the same photos for two very different situations. In her auto accident case she told the attorneys and the adjusters that her injuries were the result of the car accident. On her Facebook page, Instagram, and other social media, she claimed that her injuries were a direct result of her boyfriend's malicious assault. Let me say this one more time: This will destroy your case, as it did for Sally. It doesn't matter which story is true once the inconsistency occurs. The jury will not believe you.



Robert

Problems can and will arise if you are caught doing something that an injured person probably would not be doing. These activities can be engaging in sporting activities, dancing, mowing the yard, carrying out bags of garbage, doing auto repairs in your front yard, etc. You may tell your doctor that you are so sore you can hardly move, but if you post photos and videos of you playing volleyball on the beach, the adjuster or defense counsel will get ahold of your posts and prove that you are lying. No one likes a liar, especially the jury at your trial.

Let me tell you a story about a male client I once had, whom we will call Robert. Robert was on his way to work one morning when an 18-wheeler turned dangerously and side-swiped him. Robert was in no way to blame, but he sustained serious injuries to his neck and back. This poor injured man totaled his vehicle, had to go to the hospital, received therapy, and was looking at surgery in order to recover from the injuries he sustained in this accident. This accident really took a toll on his life and stopped everything he was working on in its tracks.

Robert was a struggling hip hop artist/rapper. He was constantly making posts to his social media in order to promote his career. However, his social media did not portray the life of someone who was seriously injured in an auto accident. Instead it displayed the life of someone who was not injured at all. He would post pictures of drugs, of him doing drugs, of his own profanity-riddled music, and of his *very busy* day to day activities. To any person who viewed his page, he appeared to be doing just fine. Of course, doing illicit drugs not only is illegal but



also is viewed by many people—especially adjusters and jurors—as so bad that they could not possibly award any money to the plaintiff.

Robert’s posts portraying his life as healthy and uninjured person was not the only thing that ruined his case. Keep in mind that when you are on trial, you are faced with a jury of your peers. The jury needs to sympathize with you and feel your pain. Simply put, the jury must *like* you. While his postings might appeal to one demographic or audience, it certainly did not appeal to the jury at his trial.

Never underestimate the importance of *likeability*. In this case, the judge allowed the video clippings from Robert’s very own social media to be played at his trial, deeming them relevant. These clippings destroyed his case and the jury awarded 100% in favor of the defendant. In short, the jury did not like him once they saw those clippings. Once your character is in question, there is often very little that can be done to persuade a jury otherwise. Keep in mind, what you are “repping” (representing) might not be great for your case.

In cases I have taken to trial where my clients were using drugs, jurors have consistently told me that they could not bring themselves to award my client any money. They believed the client would just go out and buy more drugs. They refused to be complicit in the client’s choice to do drugs, and they did not want to help out drug dealers and drug cartels, causing there to be more drugs in the community.

Because Robert failed to heed the advice of his attorneys and continued to post about his life publicly, he sin-



glehandedly ruined his case. He did not receive a penny for his accident that left him severely injured.

Austin

Another client example is a 19-year-old young man whom we will call Austin. Austin was a model client: He listened and followed his counsel's advice. Did I already tell you that Austin was a model client? So it was a shock to all of us when we received a tiny \$4,000.00 offer for his injuries. Austin had over \$24,000.00 in medical bills! Also, he was recommended for surgery. So what happened?

If your guess was something to do with social media, you are correct. While Austin was receiving treatment for his injuries, he also attended a hip-hop concert. In the negotiation phase, the adjuster justified the \$4,000.00 offer based upon that hip-hop concert. The adjuster claimed that Austin reported jumping around at this concert and acting in a manner that discredited his medical records. This simply was not true. Austin was enjoying himself at the concert, but he was not overdoing it. Unfortunately, these posts were enough for the adjuster to minimize his claim. Now, instead of an easy and quick settlement for his injuries, we will have to file a lawsuit that may take years to resolve.

Also realize that you open yourself up to your friend's comments after you post about your accident. In Austin's case, when he posted about his accident, one "friend" commented "Hell yea! Get that settlement."



An Innocent Life

Keep in mind that social media is not always bad for your case. In fact, sometimes it can work in your favor. It is fabulous when that happens. However, when the situations involve injuries and accidents, the results from social media posts are not often fabulous. Let us introduce an example that I like to call An Innocent Life. This case was a serious car accident with three cars involved. An innocent man's life was taken. The driver in the middle car died. The driver that slammed into both cars is the culprit, and he is now the sole defendant in a case where an innocent man's life was taken too early.

In heartbreaking situations such as these, you might be curious as to what role social media will have in this case. Its role will be revealed to you shortly. But first, let us dive into a little something called blood alcohol content, commonly known as BAC. This is a measure of a person's blood alcohol level. According to the Texas Department of Motor Vehicles, a person is considered intoxicated while driving if the results from their blood test or the breathalyzer test exceed .08%. Now, it is time to reveal the role social media will have in this case and get back to the story!

The defendant in this case now faces criminal charges. One of the very first things anyone will do is look at his social media. Why is it common practice to look at a person's social media page before you meet someone? We all do it and the reason is simple: We want to get to know that person! So, what was the defendant's profile picture on his Facebook account? It was a picture of a beer. A beer, folks! And not only that, but further review of his profile shows that he also happens to work for a beer company. As you



continue scrolling what immediately catches your eye are the photographs on his page. Photographs that show him out drinking—just hours before the accident in question. The defendant had also posted statements about partying and having a ton of fun, *also* hours before the accident.

Interestingly, his lab work—taken hours after the accident—showed that he was not legally intoxicated. The defendant’s blood alcohol content was less than 0.08%. This case is set to go to trial. The jury will get to see lasting photos of this driver drinking hours before this accident, and actively promoting alcohol throughout his social media accounts. In this case, where an innocent man lost his life, do you think that the jury is going to care that his blood alcohol content was less than .08% when deciding his fate?

Other Issues Social Media May Cause

Prior Injuries

Adjusters and defense lawyers are always looking for other times you have been injured to blame on your current injuries. Your prior injuries may have occurred years ago to different body parts with less serious effects than your current injuries. But a claims adjuster or a clever insurance defense lawyer will get treating doctors and healthcare providers to admit on cross-examination that they have no idea where your injuries actually came from. They are relying on the history (your word) that you gave them. Is



it possible that the patient (you) lied? All they have to do is get the health care providers to admit that it is possible.

Subsequent Injuries

Suppose you are injured the way you say you are. You are getting therapy and being treated by your healthcare providers. You are receiving medical treatment to recover from your injuries. Then you are injured in another car accident, sporting activity, etc. You post this on social media. In your mind, the accidents are totally separate and have nothing to do with each other. But a clever insurance defense attorney will get your healthcare providers to admit that they cannot separate your new injuries from your previous injuries. They cannot predict when you would have healed from your first accident because your second accident interferes with your aggravated pre-existing injury. This raises issues, concerns, and doubts in jurors' minds.

Liability, Prior Inconsistent Statements, and General Overall Trustworthiness

Let's start with the admission that we have all posted something on social media that we later regretted. (We may have even gone back and tried to delete it.) We have all said and done things we later realized were dumb, misinformed, or simply untrue. Unfortunately, the internet and social media is just like life. In life, you can't erase all the bad things you have said and done. Someone will remember them. The same thing happens on social media: You describe how the accident happened, speculating as to speed, time, and distance of vehicles, or roadway con-



ditions, or landmarks, etc. You talk about your injuries on social media and suddenly have new injuries (that are not in your medical records). You leave out a bunch of injuries you told your doctors and healthcare providers about. A clever adjuster taking your statement, or a clever insurance defense lawyer taking your deposition and cross-examining you in a courtroom of law, will use any prior inconsistent statements you make to (at best) make you look unreliable or untrustworthy. At worst, they will make you look like a liar.

Get it out of your head that you are smarter than the insurance defense lawyer—you are not. Even if you are one of the rare ones who is smarter than the lawyer, keep in mind that this is what he does for a living. A clever defense attorney will try to make you look like you are untrustworthy or a liar. Even when you are telling the truth, the attorney is highly trained and experienced at this craft. The attorney's arsenal has many more tools and tricks than yours, tools and tricks you have never seen before and would never even think of. Do not give the insurance defense lawyer any more ammunition than the attorney already has.

The Rules

Post and share with common sense and etiquette. This is a good rule for always, but especially while you are in litigation or working with an attorney on a personal injury case. Here are some common sense rules to follow:



- ① Keep your accounts private. Your attorney will never ask you to lie or to embellish facts or information. It is your attorney's job to represent you and prosecute your claims to the best of their ability. However, it is important to limit the scope of who has access to your postings. Keep them as private as possible. An insurance company will use everything it can against you, even if you think it is harmless. Allowing your profile to be public can give the insurance company plenty of ammunition against you and harm your claim. Remember: Once the information is out there, the damage is often irreparable.
- ② In most cases, we actually recommend going a step beyond just keeping your accounts private. We recommend that you take the big step and disable or go dormant on your social media accounts. This is especially true if you have significant injuries that will likely end up in a courtroom. Don't let strangers judge you based on a few pictures, painted in a negative light by an insurance attorney who is out to get you. The best thing you can do is deactivate everything until your case is sealed and closed. You never know if one of your family or "friends" will share, like, repost, or let someone else see your photos and posts. And you don't know who that "someone else" is.
- ③ Be consistent. Remember that bad things will happen if what you tell your doctor is incon-



sistent with what you post. If you are too sore to go to work, you had better not be playing volleyball on the beach. This will destroy your case! However, the consistency does not end there. You must also be consistent across your social media platforms. If you post you are injured on Facebook, then you are also injured on Instagram.

- ④ Social Media is not just Facebook. Social media can be used against you at trial and it includes all platforms. A few platforms are Facebook, LinkedIn, Twitter, Instagram, Snapchat, Meerkat, Periscope, YouTube, Livestreaming, etc.
- ⑤ Be sensitive to the public. Keep in mind, what you are “repping” (representing) might not be great for your case. Do you remember what happened to Robert? It wasn’t good.

These examples might seem extreme, but you have to be aware that even the slightest hint that you are misrepresenting your activity level will be used by the insurance company to deny or minimize your claim. Insurance companies don’t make money by paying out on claims. They make money for their shareholders when they pay as little money as possible to settle your claim. This is true even when it is your insurance company. They are not really “on your side” and you are certainly not “in good hands.” This is their business and most of them do it well, so don’t make it easy for them to deny your claim or minimize your damages to next to nothing. You were injured and deserve to be compensated for your injuries.



Following “The Rules” can help prevent costly mistakes. Remember: Keep your accounts private and limit your public postings to the public. Once a poorly worded post or damaging photo is out there, the damage can often be irreparable. Be consistent with your injuries and the life you are portraying on your social media. Social media can be used against you at trial and it includes all platforms. Finally, be sensitive to the public. At trial you are judged by a jury of your peers. Don’t let them judge you through the eyes of an insurance attorney with an agenda to minimize your injuries. You were injured and deserve to be compensated for your injuries.



Fighting Nursing Home Negligence

By Mark Petro

On a very human level, it's an incredibly difficult decision to put a loved one in a nursing home. It involves accepting that this person you love can no longer take care of themselves, that their care is beyond even your capabilities. Recognizing that the love you feel for them is not enough to meet their practical care needs anymore is a tough realization. All around, it's an incredibly upsetting conclusion to reach, and that's when we think everything is going right in the nursing home.

Unfortunately, very often, everything doesn't go right. Even the best nursing homes can have neglect and abuse issues. You can do everything right—doing the research, looking for the best facilities, trying to find a safe place your loved one will love—and it can still sometimes not be enough. You may trust your nursing home to take care of someone you love, and they may let you down in all sorts of horrible, tragic ways.

I believe that's wrong, and I believe more needs to be done about it. As a society, I think we should go above and beyond to help those who are most vulnerable, especially those who require a nursing home. Families of nursing home residents put their trust in the nursing home facilities to take care of their loved ones. Nursing homes shouldn't take advantage of that trust. They should do everything in their power to exceed what is hoped for and expected when treating those who need their services. They owe it to the residents and their families to provide not just "good-enough" care but excellent care.

And yet, time after time, they fall short. They don't even come close to "good enough." Instead, they cause true, lasting, and sometimes fatal, harm. In the time since I started practicing law in 1989, and I don't know how many tragic stories have come to me through my clients of nursing home negligence. All I can say is, it's too many.

In order to help you avoid becoming another tragic story, I want to provide some guidelines for what you can and should do when you realize a loved one may need to go to the nursing home. Knowing what can go wrong, how best to avoid it happening, and what to do if it ever does happen can save you time and ensure you protect yourself and your family as best you can.

Common Nursing Home Negligence Injuries

With that in mind, let's start with the most common injuries that occur in nursing homes because of neglect. The main injury you need to be aware of is pressure sores. Pres-



sure sores usually develop on a bony prominence like your heel, your hips, or your coccyx (the butt bone). In places like that, you really don't have anything other than skin. So, those areas are susceptible to injury when there is unrelieved pressure from not being moved enough. Most of us just reposition ourselves to avoid such injuries, but for those who struggle to move themselves, or are completely incapable of moving themselves, the risk of pressure sores is immense.

There are four stages of pressure sores, which range from only surface injuries in stage one to gaping wounds that are often fatal in stage four. Think of a stage one as being the early signs of a pressure sore. At that point, it just looks like a scratch mark on the skin. It's not broken. Stage two is where the skin's broken. Stage three is where there's a deep wound that has a small crater. And then, a stage four is where the wound is larger and deeper. At stage four, there has been extensive tissue damage, and muscle, bone, and tendons are exposed. It is also, obviously, very painful. From there, a pressure sore can lead to an infection of the bone, called osteomyelitis, an infection of the skin and soft tissue, or sepsis, which is an infection of the blood (more about that in a moment).

Beyond pressure sores, you also need to be aware of three common, significant nursing home injuries and health issues: dehydration, urinary tract infections, and sepsis.

All of these issues come up all the time in nursing homes, and very often, the reason they occur is because of neglect. As was alluded to above, pressure sores develop mostly from a lack of turning and repositioning. That's the number one cause of a pressure sore. It's also from not



using proper mattresses (no matter what a nursing home tells you later). What that means is pressure sores are mostly on the nursing home and mostly due to negligent care.

Nursing homes can significantly reduce the likelihood of pressure sores simply by repositioning and turning those patients who are incapable of doing it themselves. They can also do body audits and skin assessments to visually look at the condition of the skin, especially around those bony prominences. And then, if there is a pressure sore that develops, they need to be aggressive in treating it to help avoid it developing from stage one to worse stages.

The issues with dehydration are perhaps more obvious. Anyone who has gone too long without a glass of water knows that it can make you feel quite bad, but most, luckily, haven't ever experienced the serious effects of dehydration. Over a very short period of time, dehydration can cause a drop in blood pressure, poor balance (which may lead to less stability and an increased risk of falls). Even more seriously, it can lead to seizures, kidney failure, swelling of the brain, coma, and death. Not only is dehydration a problem in its own right, though, it can also lead to skin breakdown, which once again, can lead to pressure sores.

You may think, being a healthy individual, that staying hydrated requires nothing more than getting a glass of water when you feel thirsty, but in a nursing home setting, it is much more complicated.

Consider residents with dementia who can't remember whether or not they've had anything to drink. They have to be constantly reminded that they need to be drinking. The staff has to watch them drink and measure how much they've had to drink. Others may be physically incapable



of drinking liquids on their own and will need assistance. If that assistance isn't there as often as it is needed, then that person will begin to become dehydrated.

In other words, within a nursing home, it is the nursing home's job to make sure that every resident receives proper hydration and proper nutrition. It's one of their most fundamental and important jobs. And yet, too often, negligent care means residents aren't getting the hydration they need and are at risk of serious harm because of it.

A urinary tract infection, or UTI, is a bacterial infection where the bacteria enters through the urinary tract. One of the most common causes of that infection is catheters that were not regularly cleaned and flushed. Another major cause of UTIs is not keeping a resident clean and dry after a bowel movement, or when a resident is left wearing a wet or soiled diaper for a long period of time. All of these issues would be down to a lack of care on the part of the nursing home staff.

While UTIs in healthy people usually only lead to a period of discomfort. In a nursing home, they can lead to serious and sometimes fatal difficulties.

Finally, sepsis, as we've already learned, is an infection of the blood. It can develop from any number of health difficulties, and once it develops, the case is always very serious. That's why the nursing home staff need to be on guard against the risk of sepsis when treating other health issues. In the event sepsis does develop, they need to treat it aggressively. They have to keep up with lab tests to check the condition of the blood. If they fail in this, the results can be lethal for the resident.



What Nursing Homes Are Supposed to Do

All of this isn't supposed to happen. These issues don't develop out of nowhere. The nursing home is supposed to be on top of them. Every resident going into a nursing home has to by law get a personalized care plan that's developed by the staff. Again, that's a legal requirement.

This care plan will include the personal and healthcare services your loved one needs for each health concern. It will also include how often those services are needed, the type of staff needed to take care of services, the special equipment or supplies needed for those services, and any special dietary needs.

Say, for example, your loved one going into a nursing home has a history of diabetes. Their care plan is going to be a little different than somebody who comes into the nursing home without diabetes but maybe with a history of high blood pressure. These plans are supposed to anticipate what a new resident's most likely health issues will be and ways to avoid harm.

This care plan isn't set in stone. It should be regularly amended when needed. If something like a pressure sore, UTI, or dehydration sets in, the nursing home should change the care plan to be more aggressive with that issue.

In other words, none of the above conditions should happen to your loved one. The plan should be in place to protect them. And yet, I know first hand that nursing homes are just not equipped to stick to care plans. Residents are just not being properly taken care of, and then, once things start going wrong, it creates an avalanche effect. Things that can go wrong start to go wrong, and now



they are going wrong, they keep going wrong and getting worse. Very quickly, health problems begin to snowball and run down the slope. At that point, it becomes hard to stop them.

Why Nursing Home Negligence Happens

You may, quite reasonably, ask yourself why this is allowed to happen. After all, there aren't a lot of nursing homes out there that are purposefully, consciously trying to get people sick and decrease their comfort and lifespan.

Unfortunately, the issue all comes down to dollars. Nursing homes just don't spend enough to provide the level of care they should.

This leads to two problems. Number one, the nursing homes are understaffed. They have the bare minimum staffing required. They don't go above and beyond what they're required to do. And, number two, they don't pay the staff they have what they deserve. The work is incredibly strenuous and important, and yet, these people aren't paid much better than those who work in fast food restaurants. They are charged with caring for our loved ones—feeding them, watching over them, putting them to bed, changing their diapers—all without enough supporting staff, and they just aren't paid enough for it. How can a nursing home attract the best staff in that situation?

That's just the reality of it. That's where nursing homes go wrong. They just don't have enough staff and the training to take care of the people who need care the most.



Then, on top of that, they don't document what is happening. They don't keep track of their patients. They don't make sure care plans are followed properly. And when someone like me comes along representing someone they've harmed, often times, they'll then try to change records to protect themselves.

How to Best Avoid These Problems

Because of these limitations, there's an extra burden on the family of a nursing home resident to stay on top of their care. You have to be aware of what could happen and know what to watch for so the worst doesn't happen to your loved one.

You can start by being as careful as possible when choosing your nursing home. There's a lot of information out there in the public about all the nursing homes in your area. The state does a yearly audit of nursing homes. They come unannounced and do an audit of the nursing home's quality of care. Those audits then become public information. That's a great source of information for you to review when choosing between nursing homes. You'll also find online reviews from those who have family already at that nursing home.

Read what you can about any potential nursing home from the most reputable sources you can. This should help you narrow down your options to the best ones in your area. At that point, make sure you visit each potential home for your loved one. Once you're there, look for obvious signs that things aren't being run properly. Are the staff friendly or unfriendly? Do the residents look



happy, relatively healthy, and relatively comfortable? Does the place smell clean and inviting? Use your instincts and your gut to determine whether the place will be not just comfortable but safe for your loved one.

Once you've settled on a place and moved your family member in, you have to reorient yourself to be watchful over the nursing home care as it occurs. The best way to do that is to visit the nursing home as often as possible. The staff knows which residents receive visits from loved ones and friends, and they probably give more attention to those.

During those visits, you should look for any change in the resident's mental status to see if there's been any significant decline. Check for new signs of confusion, a lack of energy, extreme drowsiness. You should also look at their skin color to see if it has changed. And, look at those bony prominences where pressure sores show up.

You can also use your sense of smell to protect your loved one. Pressure sores have a foul odor, and you can also tell if your loved one's toileting needs are being met.

Where to Go When Things Go Wrong

If you begin to suspect something is wrong, start by addressing your complaints to the staff, and from there you can work your way up if changes aren't made to address the problem. You can request meetings with the staff where you can request a change in the care plan. Sometimes, that is enough. If it doesn't result in positive change, you should talk to the treating physician to find out more



about what is going wrong and what can be done. If you feel uncomfortable with that doctor, you can have an independent doctor come in and examine your loved one.

When the staff isn't responsive, the next step is to go to the ombudsman. In Alabama, we have an ombudsman program through the state that you can submit complaints to. This person will then work as a go between to try to find a solution to your issue. You can also file a complaint with the state at the Department of Health.

The important thing is to notify the nursing home of your concerns and to watch the staff carefully for improvements. Don't take no for an answer, no matter what excuses you get. If things don't improve, consider moving your loved one to another nursing home.

And, of course, at any point in this process, you can and should contact a lawyer. A lawyer is your best and most powerful weapon against nursing home negligence, but it's also the one you want to use only when things have gotten really bad. Lawyers are not going to get involved unless there's a serious injury or death.

That doesn't mean you can't ask, though. I am always happy to give people the information that they need. I see myself as a source of information for anyone with a loved one in a nursing home. If you're concerned that something isn't going right, you can always talk to me.

However, unfortunately, it's just the nature the system that lawyers don't get involved in a legal capacity unless the situation becomes one of those avalanche situations mentioned above: when things get bad, and worse, and then tragic.



Finding the Right Lawyer

In an ideal world, you'll never need to talk to someone like me. However, if you find yourself in one of those tragic situations, then it will obviously become important you find the right lawyer to represent you and your loved one against those who have caused you so much harm.

When looking for a lawyer, you need to find someone who doesn't just know the law, they care about using the law to help people. You need a lawyer who will communicate with you, will keep you updated, explain the process, and ease your stress and worry. You also need a lawyer who you can trust, who has solutions to the problems you face, and who has the necessary experience to see the case through.

That may seem like a tall order, but such lawyers are out there. There are lawyers who truly do care about their clients and the cases they take on. I know that for a fact because I'm one of them.

I am happiest when I have helped a client. I am happy if my client is happy. I live by the Golden Rule: Do unto others as I would have them do unto me.

I've been lucky enough not to have to put a loved one in a nursing home—my father died at 89 at home and my mother, now 88, still lives at home—but I know how upsetting, confusing, frustrating, and incomprehensible the process can be when something goes wrong there. I know, if I was in that situation, I would want the best possible lawyer, one who would care about me, my family, the harm we've suffered, and the case that can get us the justice we deserve.



I try to be the lawyer that I would need in that moment. When I take on a client, I try to always provide them the kind of care I would want for myself and for my family.

That's a moral stance, but it is also a business one, since it means my clients recommend me and come back to me any time something else goes wrong.

I recently had a nursing home case that came from someone who I had represented over a slip and fall case. That woman, Sarah Benton, called me one day to talk about her mother, Jessica. Jessica had been the nursing home for a couple years. She was no longer ambulatory, but she had seemed relatively comfortable until the last few months.

Then, everything started to go wrong. Jessica was in pain and her health was in danger. Sarah, unfortunately, hadn't known about pressure sores before. She hadn't known what they were or to look for them. She only realized something was wrong because her mother seemed to be in so much discomfort suddenly. When she finally pulled up the bedsheets, she discovered multiple late-stage pressure sores on her mother's hips and sacrum.

When I heard this, I made sure we filed suit immediately. Not only was Jessica's health at stake, getting a fair result for her and her daughter was as well. In Alabama, you can only receive compensatory damage for pain and suffering if the client is alive. Otherwise, in the horrible and unforgivable event the client dies, you can only pursue a wrongful death claim and seek punitive damages. We make a point of trying to get the full amount of com-



pensation our clients are owed for the harm that has been done to them, for all the suffering they have endured.

That isn't easy in cases like Jessica's. It's hard to get a jury to punish and deter for neglect. For some reason, jurors are hesitant to return verdicts against doctors, hospitals, and nursing homes. We have to fight extra hard against that prejudice in favor the nursing home to overcome it.

For that and numerous other reasons, this was a tricky case, but Sarah already knew I was in her corner from her previous case with me. The nursing home offered all kinds of excuses for the lack of care Jessica had experienced. For instance, they tried to argue that such pressure sores couldn't be prevented, but we showed clearly that was not the case. In the end, we were able to show clearly that neglect on the part of that staff was the sole reason for her pain and risks to her health.

Why You Should Come to Petro Law Firm

I don't want to leave you with the impression that all nursing home staff are bad or that the only possible result of entering a nursing home is neglect and poor care.

Nursing homes do a lot of good. Much of the staff mean to do the best by their residents. As we've discussed already, they are working in understaffed conditions for not enough pay, and most of them still do try to do their best. They are providing a valuable service to our society for people who have reached the point where they require too much care to stay with families or take care of them-



selves. They need professional care 24/7, and only a nursing home can provide it.

There is a great need for nursing homes, it's just nursing homes overall need to be more vigilant, and we have to be vigilant as well, to make sure they don't make those mistakes that can be so costly. There's a difference between neglect and intent, and the vast majority of issues with nursing homes involve unintentional neglect with no intention to harm.

That doesn't mean, though, that that neglect doesn't lead to serious injury and death. And it doesn't mean you shouldn't hold those responsible accountable when such tragic events occur.

The elderly are in many ways like the very young—like babies, and even the unborn. They're the most vulnerable members of our society, and it's our obligation to make sure we go above and beyond to protect those who are so vulnerable.

At least, that's what I believe, and it's a belief we live by at Petro Law Firm. I practice in several areas of law, but it is in nursing home law where I find those are cases that I feel I'm really helping people who truly need and deserve it.

It's my job to make nursing homes wake up to their responsibilities, to remind them that they must be more vigilant to the risks and consequences of negligence. When they fail in that task, they need to know someone will hold them to account. Society is going to hold them to account. I am going to hold them to account.

If you have experienced the pain and tragedy of nursing home negligence in Alabama, we want to hear from



you. You deserve a lawyer who understands your case and cares about getting the results right. And that's precisely what you're going to get when you call Petro Law Firm.



How to Fight Right:

Getting the Attorney You Want and Need

By Brad Parker

Often, when people come into my office for the first time, I can tell they're feeling a few things all at once:

They're scared.

They're unprepared.

And they're completely unsure about what to do next.

I don't blame them.

They weren't planning on needing to hire an attorney. They weren't planning on their lives to be upended by a horrible crash or accident. They never expected they'd need to understand the nuances of finding *the right* attorney. But here they

are – in serious need of an attorney and at a loss for what to do.

Finances are often one of the primary and most immediate concerns. “How can I afford you? How can I pay for your services?” are some of the most common questions I hear from potential clients. Lawyers often forget just how little most people know about our jobs. The average person doesn’t really understand that working on a contingency fee basis means we don’t get paid unless – and until – our client gets paid.

Just understanding those basics can make all the difference for my clients. Once they learn how the law works and how I’m going to work for them, they feel much more comfortable with the whole process.

One of the most important ways to “fight for justice” is by ensuring everyone feels capable of hiring a quality lawyer who will make a priority of representing their client in the best possible way. In order for that to occur, though, it’s important the potential client understands the differences between the various lawyers who might take their case – and that contingency fees level the playing field between the wealthy and not-so-wealthy.

But this can create another obvious problem – the current glut of personal injury lawyers makes it difficult for the average person to distinguish between an advocate who believes in righting wrongs and those who hang out their shingle simply to make a quick buck.

You see TV, billboard, and other advertisements for attorneys all the time. Some of those are for great lawyers



who will work around-the-clock to get the best results for their clients. Others, unfortunately, run what I call “mills.”

This means they will take just about any kind of case that walks in the door. Whether they are little fender benders, major multi-vehicle collisions, or slip and fall incidents – they want as many cases as possible. They work the case up as quickly as possible and settle it (usually on the cheap), even if the client could have been better served by not hiring an attorney. For these lawyers, the client is nothing more than a dollar sign and a number.

At such law firms, client service is nonexistent. Client attention? None – not to mention the complete lack of even basic client empathy. It’s a commodity-driven transaction. They’re just pushing out the service, collecting the money as quickly as possible and moving on with little regard to the true value of the claim or the client’s needs.

That’s not serving the client. That’s serving the lawyer. And it’s not justice.

If you’ve been horribly injured and you go to one of those lawyers, one of two things is going to happen. One, they are going to settle your case on the cheap — leaving you short of the funds you desperately need for your medical bills and your future. That’s not something you or your family can afford to have happen after a traumatic crash or accident. Or, two, they’re going to refer your case out to some other lawyer you’ve never met and they might not even know well.

When you experience a tragic, life-changing event, the last person in the world you want to hire is someone who works dozens upon dozens of cases a month, settles



them cheap, or refers your case to someone you have never even met.

Skip the Jack-of-All-Trades Attorneys

Even if you manage to steer clear of those “mill” law firms, other risks can trip people up when choosing a lawyer. Some very well-intentioned lawyers out there may not be the best qualified to handle your case.

A lot of lawyers try to practice criminal law, family law, and business law, in addition to personal injury law. These types of lawyers are “jacks of all trades and masters of none.” These lawyers just don’t have the experience or the expertise required to properly understand the complex ins and outs of personal injury. The last thing someone who’s severely injured needs is a lawyer who tries to practice every kind of law without really understanding any of them in depth.

It’s amazing how many of my fellow lawyers think personal injury law is something anybody can do. The truth is any lawyer *can*, in theory, handle the basics of personal injury, but it’s rare to find a lawyer who can handle it at the high level required to go up against large insurance companies and secure the best possible settlement for a client. Even among the lawyers who strictly practice personal injury law, you will find many who don’t have the level of expertise required to handle truly catastrophic and complex cases.

Beyond that, they may not have the money to pursue such cases. A serious injury case will easily cost tens of



thousands of dollars for out of pocket expenses such as experts, investigations, and depositions. Many lawyers don't have the ability to fund a case on that level.

Why It's So Hard to Tell the Difference between Lawyers

Obviously, your choice of lawyer is hugely consequential.

Unfortunately, it is not very easy to tell the difference between these different types of lawyers from an outsider's perspective. People are bombarded by advertising promises from lawyers and they all sound the same:

“No fee unless we recover”

“We will fight for you”

“_X_ years of experience”

How can anyone be expected to filter through all the noise to find the right attorney in such an environment? Not only do these advertisements make it difficult to tell the difference between lawyers, all those promises ought to go without saying.

Of course, your lawyer shouldn't charge you extra fees.

Of course, they should fight for you.

Of course, they should be experienced.

In the end, these promises are just empty huffing and puffing that doesn't really give the client any real information about the type of lawyer under consideration.

The bottom line is that the injured person needs to find an attorney who is not only competent, capable, and



financially solid enough to handle the case, but also one they trust to protect their interests above all else. One who can tell the client's story. One who is respected by their peers. One who is respected by the other side and the insurance company. One who is not afraid to go to trial. One who truly puts their clients' interests first and is not in it to just settle the case quickly and cheaply.

In the back of every potential client's mind is the question why they should hire *this* particular lawyer. They may not ask that question directly. Frankly, they rarely do. But in my experience, that's what they really want – and need – to know. And, in my practice, I try to answer that question every time someone comes through my door – without them even having to ask.

A Lawyer from the Start

For me, that question is perhaps easier to handle than it is for some lawyers. That's because for me, the law has never been about the big paydays I achieve. Law isn't something I settled for or decided to do halfway through college. I have wanted to be a lawyer since I was in 7th grade, and it has been my passion ever since.

My story is not too terribly different than many.

My parents divorced when I was about 12 years old, and my mother moved my brother, my sister, and me to Dallas, hundreds of miles from my father. My mother worked all the time, and when she was not working, she was spending her time out with friends. That left it to me to pretty much take care of my younger siblings.



When I started the 7th grade, I began working at the local newspaper printer, manually inserting B sections into A sections. It was during this prestigious task that I cut a tendon in my finger. Instead of getting the immediate medical care I deserved, I had to fight in order to get them to turn the claim into Workers Comp. As a semi-wild 7th grader with no one to fight for him, I got to experience what it was like to be subjected to the cruel indifference of our system. Something struck me during that ordeal. Something told me, “This is not right. Nobody should be treated this way.”

I realized right then that I wanted to become a lawyer so I could fight to make sure the system works the right way for everyone. Ultimately, this small injury had a huge impact on me and resulted in my lifelong passion for helping people who have been harmed by the negligence or stupidity of others.

I am not a lawyer looking for a quick buck. I care about those whose lives have been turned upside down through no fault of their own and making sure the system works properly and fairly so that my clients can obtain a recovery to help compensate them for what they have lost.

Cutting Through the Advertising to Find the Right Lawyer

Believe it or not, there is a way to cut through all the advertising to find a good lawyer. If you're looking for a lawyer right now, or if you know someone else who is, all you need to do is use this checklist to figure out which attorney is right for you.



- Look for a lawyer with the experience and assets for your case

Let's start with what we already know: you need a lawyer with experience. Experience is very important in law. An experienced lawyer will know the judges better. They'll know the opposing counsel better. They'll know the system better. And most importantly, they'll know how to best use the nuances of your case to get the greatest result.

We also know a law firm must have considerable assets to take on a big case that may take years to resolve.

So, start by excluding lawyers who can't offer you enough experience and haven't achieved enough success to finance your case. How? Where is their office? Are the offices located in strip shopping center or do they look as though the attorney has been successful? Look through information on their website to gauge who in your area has the right qualities for you.

- Look for a lawyer who is board certified in personal injury trial law

At this point, you have a decent idea if the lawyer has the general capabilities to take on your case. Now, you will want to know if they have the expertise. Find out if they have gone to the trouble of becoming board certified in personal injury trial law to demonstrate their expertise and competency in the personal injury field.

The requirements to become and remain board certified are relatively difficult to achieve. First, the lawyer must have been practicing for at least five years. They must have taken a certain number of jury trials to verdict where they served as the lead lawyer on the case. That means,



they were in charge as the main attorney and not just responsible for carrying someone else's briefcases. They must demonstrate they can try and win cases at trial.

Then, they must sit for a rigorous exam to demonstrate a high-level understanding in the area of personal injury law. After that, they must obtain at least 30 hours of continuing legal education annually. Every five years after that, they must get re-certified by asking judges and peers to vouch for their continued competency in the personal injury arena.

As I said, it isn't easy.

Of the total number of attorneys in Texas, less than two percent are board certified in personal injury trial law. That means, if you get a lawyer who is board certified in personal injury trial law, as I am, you are getting one of the top lawyers in the field.

If your potential lawyer hasn't been board certified, then you probably don't need to mess with them. They either don't have the right level of expertise, or they don't think it's important to demonstrate it to their clients.

- Look for a lawyer with the right reviews

I hate to make it sound like a restaurant, but the truth is, reviews are very, very important in choosing a lawyer. No one knows more about an attorney's work habits than a past client. They know if you are slow to return phone calls, if you do your best to avoid trials, or if you treat them like a case instead of a victim. And, most often, I find they are not shy about sharing the good and the bad with the Internet.



Google and Facebook are great places to look for reviews. Avvo and other lawyer-centric sites work well, too. Look for reviews with a little meat to them. That way, you can get a real feel for the lawyer. Be wary of perfect scores. Some unscrupulous lawyers stoop to posting reviews themselves or asking friends and family. Finally, like any time you are using reviews as a guide, consider the person posting the review. It is pretty easy to pick out crazy.

If the attorney has good reviews from their past clients, that says something. If they have no reviews, that also says something. If they have bad reviews, that, of course, says a great deal.

- Look for peer recognition of excellence

You now know what the clients think of the lawyer, now what do other lawyers think of them? So many lawyers tout their prowess, but very few are truly recognized as being accomplished by their peers. There are several different ways you can find out if your potential lawyer is one of them.

First, find out if they are AV-rated by Martindale-Hubbe, a long-standing information service company focused on the law profession. That proves they have been recognized for the highest ethical conduct and competency by their peers. Then, look around to see if they have received any other awards. These awards are prestigious, so they will probably be placed centerstage on any lawyer's website. If you don't see them, that lawyer probably doesn't have them.

These peer awards are significant because they tell you what other lawyers think of that attorney's skill in the legal



world. There are lawyers who I am friendly with, but who I wouldn't send a client to regardless of the case. There are other lawyers who, if a client wasn't going to hire me, I wouldn't hesitate to recommend.

Lawyers know a good lawyer better than anyone. If they've picked out one of your potential lawyers, you know they're a good option.

I am very proud to have obtained both an AV rating, as well as an AVVO rating of 10. I'm also humbled to have been awarded the H.G. Wells Outstanding Trial Lawyer Award, as presented by Tarrant County Trial Lawyers Association, a group of my peers who practice the same type of law I do.

- Look for a lawyer that does more for the law than just handle cases

Don't get me wrong, it's perfectly fine if all a lawyer does is handle cases. But community involvement shows that a lawyer goes above and beyond to make certain the laws and the system work for those who have been unjustly injured. It shows that they have a unique and special ability to understand the law, which may allow them to tell your story in a way that will achieve the very best results possible.

Many lawyers dedicate time to fighting for better laws or even advancing legislation for new laws. They try to affect changes in industry practices, so the events that happened to their clients don't happen again. They may lobby for stricter controls on manufacturing processes, so that people don't get hurt the same way repeatedly.



That kind of activity shows the lawyer doesn't just take cases to make money. They do it to make the world a little better. They have passion. They want to make the system work the right way. That level of commitment and passion tells you that this lawyer goes above and beyond to make sure you obtain the justice you deserve and that your story is told.

This side of the fight for justice has always been important to me. My own efforts include numerous speaking engagements at legal seminars, lobbying for better and more effective laws, and being a member of the Texas Trial Lawyers Association (TTLA), where I have been a member since the early '90s. In 2013, I also had the honor of being elected as president of TTLA by my peers.

This kind of work is so important because our rights are often on the line. When I was working as Vice President of Legislative Affairs and then again as President of TTLA, we fought against numerous bills. One in particular that was going through the Texas House was a bill designed to force anyone who brought a personal injury case and lost to pay the defendant's attorneys' fees.

That would essentially have eliminated personal injury as an area of law because no one would be willing risk losing their life savings, their kids' college funds, or their homes. Thankfully, we won that battle.

This side of the law may or may not be important to you, but I hope that example shows that the lawyers who branch out beyond just handling cases demonstrate a level of passion and commitment to ensuring everyone can have access to the civil justice system.



- Look for a lawyer who says something that stands out

By now, you've been searching through the lawyer's website for a bit. So, you're now qualified to answer a crucial question: Is this website generic? Is it saying the same thing every other lawyer's website or advertisement does? Or, does it stand out and present something different and unique?

Most lawyer websites will have some amount of the standard jargon and generic promises, but if they never cut that out long enough to really speak to potential clients, you probably want to stay away. Conversely, a lawyer who is passionate about advocating for their clients will inevitably showcase that in the language presented on their website.

- Watch videos of the lawyer

On most legal websites, you'll find at least a few videos. It may at first feel like a waste of time to click and watch, but this is absolutely a resource you should be using.

Ask yourself as you watch these videos: Is this someone I like? Is this someone I think I could trust? Is there something about them that resonates?

Are the videos professional, or does it look like they were put together by the local school kids? If they are not willing to spend money on their branding videos, are they going to spend the money it takes to tell a client's story?

I would encourage any potential client to go to my website, look at my videos, and see if they like me and if I'm somebody they'd like to sit down and have a cup of



coffee with. Getting a sense of whether you will click with your lawyer is a great first step to a strong lawyer-client relationship.

- Look for a lawyer that limits the number of cases they take

Want to avoid a lawyer who doesn't care about his or her clients? Find out how many cases that lawyer takes on at once. If a lawyer takes on a lot of cases, that tells you a few things. First, they are too busy to really focus on you. Second, they may hand your case off to other lawyers. Third, they may not be too picky about what cases they take on.

If you have a serious, life-changing injury, you need a lawyer who specializes in helping those with serious life-changing injuries cases. You don't want a lawyer whose primary case load is fender benders and slip and fall cases.

If you come into my office and tell me you've been in a fender bender, I'll help you find an attorney, but it's not going to be me. I'll send you somewhere to put your case in good hands, but I'm not going to take away from the focus on my clients who suffer from horrific injuries.

To make sure you're getting a dedicated lawyer, you need to know the number of cases they take. You want to be one of 20 to 30 cases. That way, your lawyer will know you, your family, and all about the issues you're going through.

At our firm, we usually only have 15 to 25 cases in litigation at any time. We make a conscious effort to keep the number that low, so we can get to know everything about our clients and their cases.



- Look for a real connection when you meet

At this point, your list of potential lawyers should be trimmed down to a modest few. Now, it's time to meet with them.

Don't look at a meeting as just a chance to sign papers and get a case going. This is a great opportunity to find out if there's really a connection between you and the lawyer.

There are some very highly qualified, competent attorneys who I'm honored to call my friend, but for whatever reason, I would not hire them to represent me just because of a personality quirk. At some base level, we just don't click. We just don't quite see eye-to-eye in some integral way, which would lead to tension in a case.

Getting along with your lawyer may not be your primary consideration when making that ultimate choice, but it is still something that ought to be considered. A lawsuit is a very stressful time in any person's life, and if you don't feel comfortable – if you don't feel like you're connecting at some gut level with your lawyer – then it's going to be even more difficult. It is imperative you know, like, and trust your lawyer.

- Find out if the staff is attentive and compassionate

This is just as important as getting along with your lawyer. You should feel like the law firm's staff cares about you when you come into the office, call on the phone, or send an email.

Ask yourself whether these people seem to care about their work or if they seem to just go through the motions.



The law is not just a calling for lawyers, it can (and should) be a calling for everyone in the office. Everyone on staff should not only be professional, but also should be caring, knowledgeable, and invested. If they display these qualities when you speak with them, that says a lot about the culture of the firm and the way clients can expect to be treated.

If, on the other hand, they seem distracted, disinterested, and disorganized, it's very likely that mentality starts at the top and works its way down. It will not get better once you become a client.

This isn't just about how you, personally, are treated either. Often, if the office is chaotic, so is the handling of your case.

Here's a great test to determine the quality of the office you're working with: how long does it take to get a call back with quality information? At my firm, you'll have a call back in 24 hours, at the very latest. The only reason it might take that long is if you call in at 5:00 pm, barely catch anybody, and have a particularly difficult question.

A call back should never take longer than that. If you're waiting for days for a call back from a law firm you're considering, consider finding another firm.

- Ask yourself if the law office experience made you feel important

After you leave the office, having spoken with the staff and the lawyer, ask yourself one more question: do you feel like these people think you and your case are important? You should have an immediate answer in your gut.



That answer is one of the most important ways you can tell if this is the lawyer for you. If the lawyer and staff are not making you feel like you matter, they may not be treating your case with the seriousness and dedication it deserves.

What a Good Lawyer Experience Looks Like in Practice

When the process isn't working with your lawyer, you'll know. Calls will go unanswered, there will be a lack of clarity in the legal process, and you'll feel disposable.

But what does a good lawyer experience look like?

We can start by listing off a few things. Your lawyer will respond to you in a professional and timely manner. They'll be forthcoming with all information and keep you completely apprised of your case and its progress. A call or visit to their office should feel as if you are talking to someone who knows and cares about you and your case.

All that is true, but it isn't particularly concrete. That's why I want to tell you about a woman we represented named Denise.

When I first met her, Denise was a young woman with two children in her early 20s who was struggling. Her father had been her main source of financial and moral support, and he had recently been killed in an oil field accident. As you can imagine, she was heartbroken and scared, and she didn't know where to turn.

Plenty of law firms would have taken her case, but most would have failed her. They may have gotten a set-



tlement, but if a firm isn't willing to go that extra mile for their clients, they'll only get a part of what the case is worth. Going that extra mile has to do with a willingness to go to trial.

Personally, I never enter a case that I think is going to settle. I enter a case to take it to trial. I know it's probably going to settle on the way, but I refuse to settle unless we reach the correct valuation for the harm done. Otherwise, I'm going to trial, and the opposing side knows that.

There are lawyers out there who will steer the case to settle, and the opposing side knows that, too. When the insurance company runs into a lawyer like that, they know they're going to be able to settle the case cheaply and easily.

Thankfully for Denise, that's not our philosophy.

I've tried a lot of cases and juries don't scare me. That's why we were able to get a full and reasonable settlement out of the oil company. For some lawyers, that would be enough, but we don't believe in dropping clients as soon as a settlement is reached. Our clients become family to us, and we want to make sure they're taken care of long after the case is resolved.

After the settlement was reached, we approached Denise and spoke with her about the next steps. We told her that most people who come into a large sum of money at a young age are unaware of how to manage the money. Historically, they spend it all quickly, and in a few years' time, they're down to nothing and in worse shape than they were after the accident.

This isn't only a cause of silly spending either. There are always family members, friends, neighbors, and seemingly



trustworthy outsiders who will come out of the woodwork after a settlement and want to borrow money. Or, they'll promise they have some sure-fire investments. Or, they'll want a loan to start this new great business, which will soon fail. Before you know it, the money has been handed out, and none of it is coming back.

We assisted Denise with setting up a special annuity. These annuities were authorized by the IRS specifically for victims of personal injuries caused by the negligence of others and cannot be bought unless you specifically qualify.

By purchasing the annuity, it ensured that Denise and her two kids will always have money because they receive monthly installments. Next month, there's more money there for her. She will never be able to spend all of the money at once and lose everything.

We still hear from Denise on a regular basis. She tells us how she's doing, how the kids are getting on. We exchange Christmas cards, and she always asks about my girls as well. And she isn't the only one. We make our clients feel special because they *are* special. We provide excellent legal representation and fight hard to obtain the very best recovery possible. No stone is ever left unturned, and we prepare every case as if it is going to trial so we can get the best result.

That is why, even well after a case closes, so many of our clients will call us solely to touch base. They keep in touch not just out of sentimentality, but they know that no matter what happens in life, whether it be a divorce or the need for a will, they can call me first because I'll steer them in the right direction. Even if I can't necessarily



handle the case myself, I'll make sure they get to someone who can.

Why Is This So Important?

As Denise's story proves, these extra steps matter.

Our work makes a profound difference in people's lives. If she had gone to the wrong lawyer, Denise might not have gotten a settlement large enough to take care of her family, and she most certainly wouldn't have gotten the extra help she needed to take care of her long-term interests.

It isn't just about the results either.

The right or wrong lawyer can make the entire process either easy or traumatic. For example, take the basic communication with your lawyer. Often, nothing happens in a lawsuit for 30 to 60 days at a time because of how the system works. A lawyer who doesn't prioritize their clients will leave them completely in the dark, uncertain whether their case is stalled or progressing, or if there have been setbacks. This can make the process traumatic.

Contrast that with our approach, where we reach out to our clients and make sure they always understand what's going on in their case. Our clients are the central focus of our practice. We try to keep them apprised of everything because we believe that knowledge is power. If clients feel they have power, they will feel confident they are being successfully represented. This is crucial to their recovery process.



This client-focus trickles down to every part of the process, and it can be particularly critical when the client is a minor.

That was the case with another one of our clients, a six-year-old boy named Rick. Rick's parents were divorced, but his father, Eric, remained a major part of his life. Eric was there for every sporting event; he taught Rick music; he took Rick to school in the mornings and picked him up afterwards just about every day. He was not only a hero to Rick, he was a loving, caring, involved dad.

Tragically, Erik was killed in an automobile crash. A lady ran a red light and hit him broad side. His truck flipped over, and he was partially ejected and crushed.

We took the case and made sure the recovery was a fair and full amount, not just because of the unnecessary nature of the tragedy, but because this young boy had lost his hero and a truly great father. The loss of life is always overwhelming, especially when young children are left to struggle without a parent.

Instead of just setting up a trust that would give Rick all of the money when he turned 18, when he may not know how to use it properly, we set up a system similar to Denise. Like Denise, rather than a lump sum of cash at once, he'll get money every month for the rest of his life. Moreover, along with Rick's mother, we ensured the amount would be reasonable enough for him to be successful but not so much that it might tempt him from staying motivated and finding meaning in his adulthood. Long term, he'll be able to grow into the man he wants to be – a man like his father – and he'll have that extra finan-



cial security that otherwise would have been provided by his father.

This system will hopefully encourage him to invest, buy property, or purchase things that add ease to his life. And, no matter what, we'll be there to guide him and support him through this process if he should ever need or want our help.

It doesn't bring his dad back, but it helps him through life because, sadly, his dad can't anymore.

We don't take any extra credit here. Taking care of someone like Rick in the way that we did – that is what should be expected of a lawyer.

That's why it's so important to find a lawyer who will actually do all of those things. Even if you're referred to an attorney by your very best friend, priest, or mentor, you owe it to yourself to take that referral and build on it. Go to the website. Try to get to know that person. Make sure this is a lawyer who you are comfortable with and who you feel is going to take care of you or your loved one.

If you don't know, like, and trust your lawyer going into the process, I promise you it won't get better as the process moves forward.

Come See Us Today

I know you weren't planning for a tragedy to happen. I know you're scattered, you're scared, you're angry, and you don't know what to do. You weren't planning on needing to know how to find a good lawyer, yet, here you are, and you need help.



I hope this chapter has been a help to you.

If you or a loved one has been seriously injured or even killed as the result of the negligence or wrongdoing of another, I hope you know by now that my office is ready to help you in any way we can.

I will not tolerate an unhappy or dissatisfied client. I will make sure that your experience with us is first class in every respect. We want to offer you the best possible experience from the moment you place your first call until well after we've finished your case, including:

- the way you are acknowledged and treated and responded to by our office
- the way that we handle the issues surrounding your lawsuit
- taking as much off your plate as possible and putting it onto ours

Our goal is to allow you to concentrate on what matters most: getting well and putting your life back together.

Simply put, we strive to provide the absolute best legal representation that can be provided, period, in the hopes that we can get you the very best outcome that can be obtained. That's just what we believe and what we do. It is our passion; it is our calling.

When you work with us, you will have our undivided attention. You will become part of our team. When you work with us, we don't just build and prosecute your case. We build a relationship that will last long after the case is complete.



Our clients become our friends, and we care deeply about them. And we make sure we show it in everything we do. For instance, every single client we take on receives my personal cell phone number and is free to call me anytime they need me.

Whenever we get a new client, I tell them the same thing: “Go home, make sure you want me as your lawyer. If you decide in the next 30 days that you’ve changed your mind, even though we will have done a lot of work in those first 30 days, go ahead and fire me. You can release me, and you don’t owe me a dime.”

I do that because, one, I firmly believe that my clients should be absolutely comfortable with the choice they have made, and two, I’m confident that it will never happen. We strive to make sure that the relationship is right, and we do everything reasonably possible to make certain our clients’ needs are taken care of.

So, if you are in that unfortunate position that you now need a highly skilled and highly regarded lawyer, the best place you could possibly start is by going to our website, watching our videos, read the reviews, and contacting our office to sit down with me and my staff. I am confident that once you do your homework, that you will not only get to know us, you will also like and trust us to fully handle your case.

