

General Instructions For Injury Clients

Things Which You Should NOT DO:

- Do not give any statements (written, recorded, or oral) to anyone concerning your accident or injuries without first getting our approval.
- Do not make any incorrect statements about prior injuries or accidents to any doctor who treats or examines you. If you don't remember, say so.
- Do not change your address or employment without notifying your attorney.

Things for you to REMEMBER:

- Address and Phone: Inform your attorney immediately of any change of address, telephone number, or employment.
- Car Repair: If your vehicle was damaged, try to obtain pictures before you get it repaired. Use color film and take a whole roll of pictures. Bring the film to us and we will have it developed. If you do not have a camera, please call and we will make arrangements to take the pictures.
- Medical Items: Save all pill bottles, casts, braces, and any other items from your doctors.
- Photographs: Give us any pictures and videos of the accident or accident scene that you or anyone else has taken for you.
- Your job: Tell us of any changes in your job, such as job duties, salary or anything else work-related.
- Receipts: Be sure to obtain and save all receipts itemizing any and all expenses you incurred as a result of your accident. Receipts must be dated and contain legible and complete vendor identification.
- New information: Inform us of anything you think has a bearing on the case, including extensive medical treatment or hospitalization.

Five BIG MISTAKES clients make:

- Not seeing the doctor if you are in pain.
- Not doing what your doctor tells you.
- Not keeping your doctor's appointments.
- Discussing your case with anyone other than your attorney or your doctor.
- Failing to tell your doctor about medical problems due to the accident.

Follow Your Doctor's Advice

Be sure to do what your doctors tell you to. There is never a reason or excuse to miss a doctor's appointment. By missing an appointment, you are saying to the doctor and insurance company that you aren't hurt enough for it to matter. This may harm your claim. It is important for your doctor to have up-to-date information on your condition and know how you are feeling. Each time you go to the doctor and report that you are still in pain, your doctor makes an entry in his or her records. Some clients get discouraged and do not see their doctor even though they are having pain.

Our job is to recover compensation for the pain and suffering that you have endured. Not going to the doctor is a good way to prove, instead, that you are not hurting. If you are in pain and you do not see a doctor, the insurance company and the jury will not believe that you are having pain. It is very important for you to work hard to get well and to go to all of your appointments.

First Steps In Representing You

When you are first interviewed, general information regarding your case is obtained. Materials relating to things you should or should not do will be furnished to you. You will be requested to sign certain authorization forms which will allow us to obtain your medical records and other necessary information.

We will notify the person who was responsible for your injury and/or their insurance company that you have retained us as your attorneys. Requests for your chart and billing information will be sent to all of the doctors and hospitals involved in your care.

Who To Talk To

Do not talk about your case with anyone except this office and your doctors. If your own insurance company wants to talk about your case before they pay your medical bills, please refer them to us.

What To Sign

Any necessary information from employers, schools, or other persons will be obtained by us. You should not sign anything for anyone else until you check with us first.

Medical Payments Before Your Case Is Settled

While your case is pending against the insurance company of the person who caused your injury, we try to arrange to have your medical bills paid by your own insurance company. This could be from the medical payments provision of your automobile insurance policy, your health insurance policy, or, if applicable, worker's compensation insurance. Please be sure that all medical bills related to your injury are sent to our office so that we may forward them to the appropriate insurance company.

Keep Detailed Records

Please be sure to record the following:

- Lost work time and wages.
- Other expenses resulting from your injuries, i.e., transportation, home care, etc.
- Pain and suffering.
- Your physical limitations.

It is important to make your entries on an ongoing basis. A summary at the end of each month will not be as helpful to us. Copies of checks and receipts of payment, as well as the above records, will be very helpful when the insurance company or an attorney asks you to recall your pain, physical disabilities, and any out-of-pocket expenses including medication.

Medical Liens

Sometimes our clients are involved in accidents where there is no medical payments insurance, worker's compensation or private health insurance. In such cases, your doctor will expect to be paid by you at the conclusion of this case. Often they will require you to agree, in writing, to have us pay them directly from the proceeds you receive. State laws sometimes permit health care providers to file a "lien" which must be paid out of the proceeds of your case. If your doctor asks you to sign what is often called a "lien letter," be sure to contact our office. In some cases, it may not be appropriate for you to sign such an agreement.

Subrogation

If any insurance company pays some of your medical or other expenses arising from your injury, the law provides "subrogation." This means that the insurance company stands 'in your shoes' so to speak, and can recover some or all of the amount paid to you by the liable party. If this is the case, the company is usually required to pay their proportionate share of the attorney's fee and costs in connection with the recovery. This is handled on a case-by-case basis.

You May Be Watched and Photographed

When a claim is filed by an injured person, insurance companies routinely conduct a detailed investigation of the injured person's background. It is not uncommon for an insurance company investigator to park his surveillance van near your house and videotape your activities. These investigators work very hard to obtain videotapes of claimants lifting heavy groceries or engaging in strenuous physical activity. However, these same surveillance tapes have been useful to corroborate our client's limitations, including the use of canes, crutches, etc.

If you believe you are being watched, please call us and try to avoid the camera. Do not exaggerate your limitations or pose for the camera.

Bankruptcy

If you are considering filing bankruptcy, you should know that you may lose all rights to your personal injury case. The Bankruptcy Court can take over your case, settle your case and give your settlement money to your creditors, and you will receive nothing. Be sure to talk to your lawyer before filing bankruptcy.

Why Does It Take So Long?

We cannot make your claim until after the doctors have given us reports stating exactly what your medical condition is and what they expect it to be in the future: in other words, until you have reached "maximum medical improvements." Many times the doctors will be very slow in making these reports. We may even, on occasion, ask you to contact your doctor to speed up this report. If we try to settle your case before your medical condition is stabilized, you may lose money that you might be entitled to for a condition that did not show up until after your case was settled.

It is important to know that your case will not be settled until the damages have been determined and all investigations to determine who is liable have been completed. It generally takes several months to gather the necessary information. If a trial becomes necessary, it can take several years to complete a case. One of the most difficult requests we make of you is to have patience. We will work as hard and fast as possible to settle your case quickly.

What is the Value of My Case?

It is impossible for us to tell immediately how much money, if any, you will recover in connection with your case. There is no formula and each case is unique. In cases of serious injury, the ultimate recovery is often related to the amount of insurance coverage available, as well as the nature, extent, and duration of your injuries, along with an assessment of liability. As your attorneys, we feel it is our primary duty to obtain an amount of money which will fairly and justly compensate you for your injuries. We will make every effort to do this by locating all sources of money. We will advise you of our evaluation in this regard.

In general, most states allow recovery of damages for the following elements of damage:

- The nature and extent of injury, including whether the injury is permanent, and the amount of disability.

- Medical expenses, both already incurred and reasonably certain to be incurred in the future. This includes mileage to and from the doctor or hospital.
- Wage loss (past and future) and damage to property (including your motor vehicle and other possessions)
- Pain and suffering.
- Loss of consortium (past and future) for your spouse.

Filing a Lawsuit

It may be necessary to file a lawsuit to obtain an adequate recovery. This is a legal decision that should be made by your attorney with your input. Before filing suit in your case, we will obtain your permission and explain to you why we believe a lawsuit should be filed.

Although a lawsuit may have to be filed, settlement is always possible. Negotiations continue and only a small percentage of lawsuits actually go to trial.

The following steps are necessary to bring a case to trial:

A. Pleadings

Pleadings are the documents parties file in court that form the basis of a lawsuit. This is intended to be general information only. Each case is unique.

- **Complaint or Petition.** A lawsuit is filed against an opposing party by filing a document in court known as a complaint or petition. The person who brings the action is the plaintiff (you). The person against whom the action is brought is the defendant. The petition is a statement of facts alleging the names of the parties and alleging why the conduct of the defendant entitles the plaintiff to recover damages.
- **Summons.** Once the plaintiff's petition is filed, a "summons" is issued to be served on the defendant by an officer of the Court, usually a Deputy Sheriff or process server. This informs the defendant that a suit has been filed and that a response must be made within a given period of time or a judgment will be taken against him.
- **Answer or Motion.** The response filed by the defendant is called an Answer, which is prepared by the attorney for the defendant. Alternatively, if a defense attorney feels there is a fatal flaw with the lawsuit, they may file a motion to dismiss the complaint or to strike portions of the complaint.

B. Discovery

Once an action is filed, both sides have a right to "discover" facts concerning the opposing party's case. Normal discovery proceedings include written interrogatories, depositions, production of records, and sometimes medical examinations.

- **Interrogatories:** Each side may serve written questions on the opposing party, called "interrogatories." We will serve interrogatories on the defendant on your behalf, and the defendant will serve interrogatories on you. You are required to answer these questions within a prescribed period of time, in writing and under oath. Our staff will assist you in preparing your answers.

- Depositions: A "deposition" is an oral and transcribed statement, under oath, which may be used by either side in a lawsuit. It has the same effect as testifying at trial. It is used to learn as much as possible about the other side's claims or defenses. Those present are the parties concerned, their lawyers, sometimes an additional witness or two, and a court reporter who records the questions and answers.

The lawyers normally agree in advance where the deposition will be held. It is usually in the office of one of the lawyers.

You are required by law to give a deposition. This is not something in which we have a choice. Because of this, we will need your full cooperation. Prior to the deposition, your lawyer will go over the facts of the case with you and answer any questions you might have.

YOUR DEPOSITION IS OFTEN THE MOST IMPORTANT PART OF YOUR CASE. It is important that you be prepared well in advance of the deposition date.

In giving a deposition, there are a few rules to follow:

- Always tell the truth, even if it hurts your case.
- Answer only the questions. Do not make any voluntary statements or speeches.
- Think before you make any answer to any questions. If it concerns a matter about which you do not know, or a detail you do not remember, you may so state. However, once you have stated that you do not know or remember, it's hard to change your testimony at trial.
- Always be polite.

Frequently, the other attorney will ask you questions which will seem to have no bearing upon the case. Nevertheless, it is your duty to answer these questions, notwithstanding the fact that they may irritate you. Never conceal prior injuries or prior illnesses. Remember, the other side has the means of obtaining such information.

Mediation

There are occasions when the parties submit the dispute to "mediation." The parties meet with an independent third person, usually an experienced lawyer or retired judge, who assists the parties in arriving at a settlement. The results are not binding. It is informal and less expensive than a trial. If this is an option in your case, your lawyer will discuss it with you.

Uninsured/Underinsured Driver

If you were hit by an uninsured or underinsured motorist, you may be eligible for benefits under your own policy or the policy that covered the vehicle you were in. Many insurance companies have special "uninsured motorist" provisions. In most cases, you will be able to collect for your lost wages, medical bills, pain and suffering, etc., in the same way as if the driver that hit you did have insurance. We ask that you provide us with a complete copy of your own insurance policy in force at the time of the accident.

Claims Against the Government

Any injury claim, whether it stems from a car collision or other event that involves the government, is subject to special rules. The governmental entity involved may be the state, a city, a county, local government, or the United States. Generally, a Notice of Claim must be filed with the appropriate governmental agency very soon following your injury. If you believe that the government may be involved in your case, please notify us immediately.

