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Fatal Mistakes

That Will Ruin Your
Texas Auto Accident Case

Gregory H. Herrman
Personal Injury Attorney



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Table of Contents

Foreword.....	5
Introduction.....	6
Chapter I.....	7
What is a Personal Injury Claim?	
Chapter II.....	10
What Exactly Did You Get Into?	
Chapter III.....	16
What Can An Attorney Do For Me?	
Do I Really Need One?	
Chapter IV.....	20
What's Your Case Worth?	
Chapter V.....	23
What You Need To Know About The Legal Process.	

Chapter VI.....	26
Lawyer Advertising and How to Choose the Right Attorney.	
Chapter VII	32
Seven Fatal Mistakes That Will Ruin Your Texas Auto Accident Case.	
Chapter VIII.....	41
Knowing Your Insurance.	
Chapter IX.....	45
Facts and Procedures of Personal Injury Trials.	
Chapter X.....	47
About My Practice and Why I Wrote This Book.	
About the Authors.....	51

Foreword

If you are reading this chances are either you or someone you know was recently hurt in an auto accident and are thinking of hiring a lawyer to file a personal injury claim. You've definitely opened the right book. You may be thinking to yourself, why do I need an attorney? I'm not in any pain, should I still see a doctor? What about my insurance, will they cover me? What about medical, legal and attorney fees? Do I pay for all of this? Trust in the fact that you are not the first person to ask these questions, and far from being the last. In fact, these types of questions are asked so frequently that lawyers have written hundreds of books to answer them. Lucky for you, all the information you really need to know is right under your nose.

This book will not only help guide you in the process of filing a claim, but will also inform you of what NOT to do. Often, cases are lost due to the actions of the clients during the ongoing case. Lawyers are having to deal with these issues constantly, causing the loss of precious time and money. By reading this book you will find helpful tips on whether you need an attorney, how to find one and what other challenges lie ahead. Instead of just giving you information on how to win a personal injury claim, this book will also give you information on how you can lose your claim, something that can potentially be more useful. This book is written from the perspective of a Texas auto accident case. Note that different states have different rules and laws.

Introduction

Often, people find themselves susceptible to stereotypes and preconceived ideas by the media and other outlets regarding lawyers and personal injury cases. They assume that what they hear by word-of-mouth are legitimate facts, among other misleading and false information. This not only gives people a false perception of how the process actually works, but also prevents them from pursuing claims in which they could have been compensated. The majority of the public believe these misconceptions and assume they can file a claim at any time, or that the process is quick and is to be considered “easy money.” Others are under the impression that they are guaranteed certain compensation and that in order to receive this compensation, they must go to trial. This couldn’t be further from the truth. Many times, plaintiffs aren’t awarded what they expect by juries. Also, more often than not, your case can be settled outside of court. Other misconceptions include unrealistic representations of timelines and other false dramatizations.

Clients frequently ask a lot of questions about these fallacies upon hiring a lawyer and are surprised to understand that they, along with a majority of the public, have been deceived. This book aims at setting the record straight for those who aren't familiar with personal injury claims and the process involved. Don't base your decision off of what people say or what they tell you, instead read this book. Educate yourself so that you are equipped with the proper information necessary to pursue filing a claim and why hiring an attorney is not a scam, as others may have wanted you to assume, but a vital and critical component in terms of receiving what is duly owed to you.

Chapter I

What Is A Personal Injury Claim?

If you have been in an accident, the first questions that might come to mind are how you are going to deal with the situation and what to do first. You may be wondering whether your insurance will cover a few of the expenses, if not all; in which case, you begin to weigh your options. Going through your insurance is, by all means, one way to go about handling your accident. Contacting them immediately after an accident is a good idea. However, your insurance company is not going to pay your medical bills, lost wages, pain and suffering, emotional distress, etc., if the other driver has liability insurance. You will have to go after the at-fault driver's insurance first except to the extent that you have personal injury protection (PIP) or medical bills payment (MEDPAY). This is usually a small amount on most policies. Contacting a lawyer first is the best way to go.

What typically qualifies as a personal injury case are situations in which a person's body, mind, or mental state are hurt due to someone else's negligence or carelessness. Negligence is the term used to describe when a person's behavior causes either an injury or death. Common sources of a personal injury claim are as follows: automobile accidents, pedestrian accidents, slip and fall claims, defective product claims, and medical malpractice, among many others. To have a strong personal injury case involving negligence, one must first prove the following things: the defendant had a duty of care toward the plaintiff, the defendant breached that duty, or failed to live up to it and that breach or failure of care was the proximate cause of the plaintiff's injuries.

A personal injury lawsuit claims that the defendant caused the plaintiff's injury and demands compensation, usually in the form of a money payment known as damages. Injuries done to a person can range from a cut or bruise, to a broken limb or herniated disc or paralysis. This does not include damages done to property, such as automobiles or its contents. Personal injury law addresses the damage to the injured people. Take note that a personal injury claim does not include the death of a family member by wrongful means, otherwise known as a Wrongful Death claim. In Texas, these are governed by the Texas Wrongful Death statute. If you decide to follow through with a personal injury claim, there are a few people who will be consistently involved in your case that are worth knowing:

- The claimant or plaintiff; the individual making the claim under the tortfeasor's insurance policy or under his own policy.
- The tortfeasor or defendant is the person who is claimed to have caused injury.
- The attorney; person licensed to practice law representing claimant.
- The adjuster; hired or employed by the insurance company whose sole job is to make sure that they avoid paying out money under the claim, or at least pay the minimum possible.
- First and third party insurance companies; First being the plaintiff's, and the third being the defendant's.

An experienced lawyer, who is familiar with personal injury law, can handle insurance companies in a way that someone managing their own case just can't. That's not to say a person can't handle their own case; however, if handled with the help of an attorney, there may be minute details that other people working by themselves may have missed. A well-trained personal injury lawyer knows the law and insurance contracts inside and out, and is able to prove damages to

claims representatives from insurance companies in a professional and persuasive manner.

Lawyers who are skilled as personal injury attorneys know the law surrounding negligence and other personal injury areas and can be as informative and specific as needed. Having sufficient knowledge in fields such as medicine, accident reconstruction and economics allow lawyers to prove your case in front of a jury with convincing evidence. The more persuasive and informative the case, the better chances are in proving it.

Chapter II

What Exactly Did You Get Into?

Before 1977, the year lawyers were able to legally advertise on media outlets, polls showed they suffered from a poor public image. For the most part, those who hired and knew which lawyers were reputable moved within the same social circles, making it difficult for the less privileged to access, let alone know, what they were doing. After all, the highest obligation a lawyer had was to provide legal services to those in need and didn't have it. Insurance companies jumped on this notion and began to sway the public's perception of lawyers in a way that would only benefit themselves.

Over the past thirty years, the insurance industry has done a great job in spending billions of dollars in advertisements spreading false and misleading information about filing claims. They, the insurance company, want the majority of people to assume that the justice system has gotten out of control and that the courts are awarding millions of dollars for simple, minor injuries. Sadly, these tactics have proven to be effective as it has had an enormous negative influence on juries and their verdicts on trials. The public, as a result of this propaganda, have become highly skeptical of those claiming to be suffering from pain.

Insurance companies are in the business of making money. They are not in the business of "being fair," having "good hands" or "protecting you," despite what their ads say. They make money by paying out as little as possible on claims. Adjusters receive extensive training on how to save the company money, not how to pay a "fair"

settlement. Many get bonuses, not for being “fair,” but for saving the company money.

Here are a few of the tactics they may use:

- 1) Delay. The adjuster knows most people have better things to do than struggle with the adjuster over money. They also know many people live pay check to pay check and constantly need just a little extra cash. They know if they can keep delaying the process and payment many people will just give in and take whatever they are offering.
- 2) Requesting unnecessary or duplicate documentation. Adjusters many times will request all sorts of information and documentation that have nothing to do with the value of their case. Many times you send it and they claim they never received it. I have seen an insurance company request the same information as many as five different times claiming they never received it the first, second, third or fourth time. This sometimes happens even when we send it overnight, certified mail, email, fax and regular mail. They know that many people will just get worn down and give up and accept any offer they are making.
- 3) Changing adjusters or transferring the file to a “Third Party Claims Adjuster” company. Without warning, you may be notified that the adjuster who was handling your claim is no longer on the file. You have a new adjuster who wants to take another recorded statement or go through all of your injuries again, or all of your documentation again. He may even say “There is nothing in the file. We are going to have to start all over again.” Sometimes they will send the file (your claim) to some “claims adjusting” company. This new “third party” claims adjusting company may claim they did not get all

of your documentation and you need to resend it to them. They now have a new set of questions they need to ask you or may need another recorded statement.

The insurance company or adjusting company may also claim they can't get in touch with their insured to get a statement or cannot get in touch with a witness, so there's nothing they can do until they are able to talk to the insured or the witness. Again, this may be true in a small amount of cases, but many times when I have heard this, I have had no problem contacting their insured or the witness they claim to be so elusive.

- 4) Disputing your medical treatment. In my career, I have never talked to an adjuster who, somehow, did not question my client's need and extent of medical treatment. These adjusters are not doctors, nurses, physician's assistants or chiropractors. They have virtually no medical training at all, yet they question every treatment and every test, claiming it is unnecessary even if it is prescribed by your own doctor, who usually is highly reputable.
- 5) Discounting your medical treatment. Even if the adjuster accepts the need for the treatment they will almost always claim the charges are unreasonable and too high. They will "discount" the charges anywhere from 10% up to 90%. They will claim they looked at what other providers in the area charge for the same or similar services, and "adjusted" accordingly. This is a lie virtually every time. Again, their job is not to be fair, it is to wear you down, get you to take less money and save the insurance company money.
- 6) Threaten and/or lie about your need for a lawyer. Some adjusters will tell you if you hire a lawyer they will deny your claim or offer you even less. Some will tell you if you hire a lawyer all of your money will go to the lawyer

and you will be left with nothing. The truth is the insurance industry itself did a study through the Insurance Research Council (IRC), a nonprofit organization that is supported by leading property and casualty insurance companies across the United States. The IRC found those people who hired a lawyer received, on average, 3 ½ times more money than those who did not.

- 7) Misrepresenting benefits. Adjusters many times misrepresent, sometimes flat out even lie about the amount of coverage and existence of other benefits under the policy. For instance, if you don't specifically reject PIP and UM/UIM coverage, in writing, then you automatically have it. Many adjusters will tell you that you don't have it but they either know or fail to verify that you never rejected it in writing.
- 8) Befriending you. This is a common tactic. The adjuster acts like he or she is your best friend. I have even heard of adjusters almost "flirting" with the claimant. They may even give you "advice" about the type of treatment you should seek and how frequently you should get treatment. Even if you do take their advice, and especially if you don't, they will probably later claim your treatments excessive. If you missed some visits, they will claim you must have already healed so they are not going to allow or pay for those treatments.
- 9) False promises. Some adjusters will tell you to, by all means, get whatever treatment you need and send them the bills and they will pay them. They do this with full knowledge that later on they will claim certain treatments and procedures were unnecessary, unreasonable and excessive. Unfortunately, you still owe the money to the provider and the insurance company is now refusing to pay, putting you in a bind.

These are just some of the many tactics the insurance industry uses. Many are more subtle. They do these things to wear you down, frustrate you and get you to settle for much less money than you would be otherwise entitled to.

When I graduated from law school in 1986, the insurance industry had lost tremendous amounts of money by speculating in real estate and was heavily invested in the Savings and Loan Industry. Anyone who was around at the time remembers that many S & L's went bankrupt, losing insurance carriers tremendous amounts of money. Many carriers went into receivership/bankruptcy. Insurance companies had to figure out how to recover from their losses and fix their balance sheets. They figured out if they could change the laws to their benefit that could make up for the billions they had lost speculating in real estate and the S & L debacle.

Thus, in Texas, in 1987 (the legislature meets every 2 years in odd numbered years) began the insurance industry's assault on our justice system. They started the so called "Tort Reform" movement, claiming it to be a "grass roots" movement. These "Tort Reformers" or "Tort Deformers" as I like to call them, have passed more and more "Tort Reform" (taking away long established rights of Texans) virtually every 2 years (every legislative session) and it continues to this day. They have also stacked the Texas Supreme Court (all 9 justices) with so-called "conservative" judges and many appellate courts with judges who claim to be "reining in" excesses of our fair-minded jurors.

Unfortunately, all of the propaganda put out by the insurance industry and the politicians they have backed has created a backlash against our civil justice system and a poisoning of our juror's minds. I have even seen billboards with a picture of a family with a sack of groceries and a message claiming that the reason your groceries cost so much is because of lawsuits. The insurance industries' own studies show this is a flat out lie, but that is what propaganda is all about.

The success of this propaganda has emboldened many insurance companies to refuse to pay fair amounts of compensation until you are literally “on the courthouse steps” ready for trial.

Don't lose hope! With a good personal injury attorney, you can get fair compensation, but it may take time and effort and a law firm the carrier knows will take your case to trial if need be.

Chapter III

What Can An Attorney Do For Me? Do I Really Need One?

Rather than ask yourself if getting an attorney is necessary when you are injured because of another parties negligence, the question should really be, can I afford *not* to hire an attorney? Of course, if you are involved in a small auto collision without any visible property damage, and more importantly, you are not injured, it is likely that you will be able to solve these types of issues without legal assistance. If you are hurt in the collision though, it is important that you keep your rights in mind and feel comfortable with what is often a difficult process. Most good personal injury attorneys work on a contingency basis. This means if there is no recovery for you, the attorney worked for free. No charge to you at all. If there is a recovery, then the attorney gets a percentage of the recovery. This gives the attorney a huge incentive to get you as much money as they can on your personal injury claim. If you had to pay your attorney by the hour, 99% of people would not be able to afford it and the attorney would not be incentivized to get you the maximum amount he could.

Whether you or someone you care for was injured, it is important to remember that the party that is responsible is likely represented by an insurance company whose goal it is to diminish and undervalue the severity of your injury and its insured's negligence in order to compensate you as little as possible. Insurance companies routinely take advantage of unrepresented injury claimants in this way

to maximize profitability for the company. By hiring an attorney to represent your rights when you are injured you immediately add credibility to your claim, because an attorney has the ability to take legal action up to and including filing suit against the party who caused your injury. By having representation who has the ability to exercise the authority of the legal system, the insurance company will be forced to give full attention to your claim, and not write your claim off as unimportant or trivial.

Insurance Companies' Profits

It is commonly known that insurance companies often are forced to pay higher settlements to those who are represented by an attorney, because of the threat of litigation, as was mentioned previously. Too often though, insurance companies routinely take advantage of unsuspecting injured parties who are attempting to be made whole, only to come to find out that the insurance company only has its bottom line and profit margins in mind. In fact, many of them are doing a very good job of taking advantage of injured claimants. In recent years, the insurance industry has continued to grow at the expense of others, becoming one of the most profitable industries in the United States, with insurance companies continuing to benefit at a record setting pace. Below is a list of auto insurance company profits in 2014 as represented by the Insurance Information Institute:

2014 Sales for Auto Insurance Companies

1. State Farm Insurance
\$35.6 Billion in sales (18.7% of market)
2. GEICO Insurance
\$20.5 Billion in sales (10.8% of market)
3. Allstate Insurance
\$19 Billion in sales (10% of market)
4. Progressive Insurance
\$16.6 Billion in sales (8.7% of market)

5. USAA Insurance
 \$9.8 Billion in sales (5.2% of market)
6. Farmers Insurance
 \$9.7 Billion in sales (5.1% of market)
7. Liberty Mutual Insurance
 \$9.5 Billion in sales (5% of market)
8. Nationwide Insurance
 \$7.3 Billion in sales (3.9% of market)
9. American Family Insurance
 \$3.5 Billion in sales (1.9% of market)
10. Travelers Insurance
 \$3.2 Billion in sales (1.7% of market)

Information on policy sales and market share come from SNL Financial and the Insurance Information Institute.

As you can see, insurance companies make billions of dollars a year, and will continue to do so by selling high dollar insurance premiums and then taking advantage of unsuspecting injury claimants by undervaluing their claims. Before you begin to communicate with an insurance company about your claim and your related injuries, it is in your best interest to contact an attorney as soon as possible. Don't fall into the trap. Make sure your interests are represented by an attorney so your claim is respected.

Once you hire an attorney to represent you and your interests in a personal injury claim, there are a number of things that the attorney will do on your behalf to maximize the compensation you receive for your injury. While I cannot speak personally to what another attorney may do for you because each case and its facts are different, there are a number of things that any good injury attorney will do for injury claims.

- Conduct initial background searches and investigatory measures to identify all parties and issues
- Conduct in-depth interviews with the client and witnesses

- Send out letters of representation to all involved parties
- Send out spoliation letters to all involved parties so all evidence related to your injury is preserved and protected
- Send out Freedom of Information Act Requests (FOIA) on your behalf
- Gather all medical records and billing associated with your injuries
- Work with an accident reconstructionist, if necessary, to reconstruct the collision using state-of-the-art imagery technology
- Capture downloads from the vehicle that caused your injuries, so that we can determine what the adverse party was doing prior to and after the collision
- Gather photographs, diagrams, and any other relevant physical evidence that will assist with your claim
- Analyze the insurance coverage available to determine what compensation may be available
- Contact experts in the particular field to conduct studies that will help present your claim favorably
- Craft a demand package which carefully analyzes and evaluates your injury claim
- Negotiate with the insurance company and their representation
- Draft a Plaintiff's Original Petition and all related litigation documents in reference to the claim if necessary
- Perfect service of lawsuit and associated discovery
- Conduct depositions of relevant parties to the claim
- Prep client for giving deposition
- Prepare and attend pre-trial mediations if necessary
- Formulate and perfect trial strategy
- Prep client for trial
- Negotiate all subrogation and liens filed by 3rd parties in reference to client's injuries

Chapter IV

What's Your Case Worth?

As medical bills, vehicle repairs and other costs begin to pour in, knowing what your damages are worth can be crucial in processing your claim. The amount determined boils down to quite a few things and vary from case to case. Your lawyer will gather evidence, collect interviews from witnesses, and go back and forth between your insurance company to calculate these damages. But, as with any case, figuring out what your injuries have cost you monetarily, physically, and mentally can be difficult to put a price tag on.

Proving responsibility is the first thing on the checklist as lawyers must supply enough evidence to show a responsible party is at fault. Not only does the responsible party need to have had a duty in relationship to the plaintiff, but that duty must have been breached. Breach of duty is defined as failure to act as a reasonable, prudent person would have under the same or similar circumstances. However, their negligence (breach of duty) must be the proximate cause of your injuries. Even after proving that the other party was in fact negligent, you must defend these facts and argue evidence showing that your injury and other damages are a direct result. This will inevitably determine whether or not your case is of any value and whether or not your claim is worth pursuing.

Most personal injury damages are classified as compensatory, meaning that they are intended to reimburse the injured plaintiff for what was lost due to the accident or injury. Some are easy to quantify, like reimbursement for property damages or medical bills. However, in regards to pain and suffering or the inability to enjoy life,

hobbies, or deal with future problems, it becomes much harder for attorneys to establish a monetary value and proving these damages can be even harder. There are ways in which the plaintiff's actions can affect the damages awarded, such as comparative negligence, and contributory negligence, which means that the plaintiff is partially or entirely responsible for his own damages and that the defendant shouldn't have to pay.

The amount and type of supportive material needed to support your claim can be incredibly specific and time consuming as your claim becomes reliant on the availability of evidence, detailed police reports and other factors, such as the cooperation of witnesses. Documents such as medical records can play a major part in determining the value of your case to show that damages were properly addressed within a timely manner. Failure to get treatment and, as a result, worsening your injury, will cause you, the plaintiff, to receive less than what is expected, if anything at all. For instance, if there is a delay from when you were injured and the time you went to visit a health care provider, this could potentially harm your case as the defendant will use your lack of urgency to argue the severity and/or the existence of your injuries. Many times people simply have no money to go see a doctor or healthcare provider and simply decide to tough it out and take aspirin or ibuprofen to try and relieve their pain. Most good personal injury lawyers in Texas will provide financial assistance (loans) to clients to get medical care or make other arrangements to assist them in getting medical care to prevent this. This is why it is vital that you choose a diligent and dedicated personal injury attorney who is equipped to help you in your medical needs, gather evidence and negotiate with insurance companies as to what your damages are worth.

There are different types of compensatory damages, such as medical bills, lost income, property loss, pain and suffering, emotional distress, loss in quality of life, and loss of consortium. A damage award can be obtained through a jury verdict or can be agreed upon

after a negotiated settlement has been established among all parties, insurance companies and their attorneys. Punitive damages are sometimes awarded to certain cases in which the defendant's actions were completely outrageous. On top of your compensatory damages, punitive damages can be awarded in an effort to "punish" the defendant for their outrageous and/or criminal behavior.

Chapter V

What You Need To Know About The Legal Process

It is quite common for people who file personal injury claims to become restless and eager to know the status of their claim. However, a lot of people do not understand that it is not as easy as 1-2-3. In fact, there are many steps involved and it can take months to build a case and many more before a claim can be settled. A majority of the time clients tend to not understand how long it takes for lawyers to gather all the necessary data and how long it actually takes for insurance companies to make an offer. It is vital that you know what to expect from not only your lawyer but from the insurance companies, defendants and other third parties that may be involved. The most frequently asked question (FAQ) is how long it takes to get a case settled. The next most FAQ is how long it will take to go to trial, if needed. There truly is no honest answer; but, on average, it can take anywhere between 2 weeks – 3 months after all treatment to settle your case and 1 year to 18 months to go to trial. So here is a rundown of what a typical litigation process looks like.

Pre-Litigation stage: (1-6 months)

Screening and Investigatory phase:

First and foremost, what your attorney will do upon opening your case is notify the insurance company that you have legal representation and for all further communication to be between insurance company and your lawyer. Next, your attorney will assist in property damage negotiation for your vehicle, including repairs, while conducting a thorough investigation. Depending on the situation, it can take anywhere between 1-6 months as lawyers gather physical evidence, interview witnesses, obtain photos, hire experts if needed and gather all medical records from hospitals, clinics, physical therapists, chiropractors, surgeons, and orthopedics. If you are still treating with a provider after the 6 month period, then this phase may last longer. Your lawyer can't collect all of the medical records if you are still treating. After which a lawyer can make a final decision as to whether or not the case is worth litigating.

Settlement Negotiation phase:

If the case is developed accordingly, the negotiation process begins. This can take anywhere between a week to several months. Most of the time, lawyers will engage in settlement discussions between responsible parties, insurance companies and any others that may be involved to determine if a reasonable settlement can be reached. A demand is sent out first by the lawyer, asking for a specific amount of money, usually a lot higher than the case is actually worth. The adjuster reviews the demand package and makes an offer in return. If an impasse is reached, that is, no one was able to come to an agreement and the settlement offer is unfair, then the lawyer may recommend filing a lawsuit.

Litigation stage: (1-18 months)

“Litigation” is defined as the process of taking legal action. If no agreement can be reached, then your lawyer, with your consent, will move quickly and aggressively to begin litigation. Once he determines that your case is worth litigating, a petition is sent out to each defendant in which the plaintiff waits for an answer. An answer is where each defendant served responds back to each allegation contained in the petition. If served within the state, they are given until the following Monday after expiration of 20 days to respond.

Discovery phase:

Both sides obtain information, testimony, documents, and other evidence from each other or anyone who may have information on the case, after which depositions are scheduled. Depositions are meetings in which the opposing attorneys ask questions of witnesses and parties under oath. Mediations are usually held afterwards in an attempt to settle a case before going to trial. If mediation is unsuccessful, then the case will usually go to trial and the outcome will be determined by a jury.

Chapter VI

Lawyer Advertising and How To Choose the Right Attorney

It can be difficult finding the right attorney for your personal injury case. A quick search for “Personal Injury Attorney” on Google® will bring you thousands of results and thousands of attorneys claiming to be the best. Often times, personal injury attorneys will offer a free consultation and will work on a contingent basis. A contingent fee is any **fee** for services provided where the **fee** is payable only if there is a favorable result. According to Texas law, it is defined as a "**fee** charged for a lawyer's services only if the lawsuit is successful or is favorably settled out of court." So, when finding a lawyer, how do you know you are choosing the right one?

There are a few guidelines that you can follow to help take some stress out of the situation when choosing a lawyer:

- Choose an attorney who only handles personal injury law. Many attorneys, in an attempt to raise revenue for their firm, will take in all types of cases. “General Practice Law” is not always the best for the client because the attorney has too many practice areas to focus on. A divorce has little to do with a personal injury, and a personal injury has little to do with a bankruptcy. **You should pick an attorney whose practice is 100% focused on personal injury law. There are too many minute details surrounding personal injury law that a lawyer only focusing on personal injury part-time might miss. If you need braces for your teeth, you are not going to visit a family practitioner for treatment.

- Choose an attorney who shows that he or she is an EXPERT in the personal injury arena. We will touch on this more in-depth later in the chapter, but proper research on your personal injury attorney is essential and it is important to know the content of what is being said. If you go to the attorney's website on Google, are there positive reviews about the firm? Are there any testimonials about encouraging experiences of past clients with the firm? Has the firm been around for a while? Knowing the answers to these simple questions will really help when trying to find the perfect personal injury attorney for your case.
- Choose an attorney that knows what he or she is talking about! The nature of a personal injury case leaves it in the handling attorney's best interest to know a vast amount of information about certain injuries. Many clients with cases that involve injuries stemming from a collision or personal injury claim have problems with their neck and back. Knowing about cord compression, herniations, disc protrusions, and the ability to look at an MRI read and understand what you are viewing: these are all important abilities your personal injury attorney should possess. There are now new diagnoses in the area of spine medicine that literally did not exist a few years ago, not to mention new treatments and minimally invasive procedures that have been created due to advancements in technology. If you have a neck or back injury claim, you want an attorney who is acquainted with spine medicine so proper treatment and diagnoses can easily be pursued, presented to the insurance company in negotiations, or made part of a persuasive presentation to a jury on your behalf. You would be surprised at how few personal injury attorneys really understand this area of medicine while neck and back injury

claims make up the bulk of accident cases that exist in Texas.

- Choose an attorney that is a proven WINNER at trial! No one wants to have to go through the whole expense of trial: Depositions, discovery, time, hiring of experts and money out of the client's pocket. However, it is very important to have an attorney that has the ability to take the case to trial if necessary. The ability to take a case all the way to trial lets the insurance company know that the attorney is not going to take "no" for an answer; it's a great tool to have in the shed. The insurance companies know which attorneys are serious litigators and which are not, and negotiate accordingly. If an insurance company knows Law Firm A can try any case it has, the insurance company will negotiate more reasonably with Law Firm A. If Law Firm B has a reputation for trying cases, then the insurance companies are LESS likely to negotiate fairly with Law Firm B.
- ATTORNEYS THAT FIND YOU ARE LIKELY NOT THE BEST REPRESENTATION FOR YOU. I would be very cautious of attorneys that "found" you. You do the research; you find the attorney YOU are comfortable with.
- What is your attorney well-known for? You want an attorney that is well-known for results! You do not want an attorney *just* because he or she has the most commercials, or because he or she sponsors the city's professional basketball team. Much of the personal injury arena is dictated by how much money a law firm spends on marketing. A word to the wise: do NOT judge a law firm by the exterior, but by the content of its character. Google reviews, peer reviews, and past client satisfaction, among other criteria not mentioned but

are similar, should be the guiding light for choosing the right attorney.

- The BIGGEST name is not always the BEST name. As we mentioned above, you should make the decision on an attorney based on the quality of representation, not on the amount of money spent on advertising. Often times, a larger firm experiences more turnover and, as a result, less experienced attorneys that know less about your case. You want to go with a law firm that has recognition for achievements in the legal community who can also take your case all the way to trial if needed.

On the other hand, just because your attorney does advertise it is not necessarily a bad thing. The market for legal services is extremely competitive and many lawyers have decided that they must advertise so that one extreme advertiser does not take all the business in town and to remind people that there are other good lawyers out there besides the one dominating the airways.

The bottom line: you need to choose an attorney that YOU are comfortable with. Do you find him or her trustworthy and credible? Do you feel better about the case after talking with your attorney? Does the attorney explain concepts and ideas when you don't understand something? These are traits and qualities of a great attorney and one you should hire and stay with.

CASE STUDY:

Personal Injury Attorney Solicits Clients

For the second time, Alexander Begum, a prominent personal injury lawyer, has been sued in Bexar County over allegations of improper solicitation of clients, a mysterious and unlawful practice also known as barratry.

Debbie Suarez, a legal assistant in Begum's San Antonio office in 2011, claims the firm regularly solicited people who were in accidents with promises of money, rental cars and quick property damage repair. Suarez claims she was fired in November 2011 for complaining about this to Begum and refusing to go down to a local spine clinic to try and sign up an accident victim. When the firm asked her to commit a felony, she refused.

The lawsuit seeks unspecified damages on Suarez's claims of improper dismissal and being solicited to commit barratry. The law firm claimed to have never committed barratry. Under the law, neither lawyers nor their representatives or proxies are allowed to solicit clients. Despite this, barratry has long been rampant in South Texas, with people being approached at hospitals, funeral homes or at home. We see this type of improper solicitation all the time, so be conscious of how you and your attorney met in the first place.

As we foreshadowed earlier, success in personal injury law is often dictated by how deep the pockets of the law firm are. As such, there are some important things to know about advertising in personal injury law:

- There is no rule governing attorneys that sets a minimum amount of experience needed to advertise for an area of law. Meaning, a lawyer with a lot of money can advertise all day about being a "personal injury" lawyer, or "divorce" lawyer without any real knowledge of the subject-matter. And although there are certain benchmarks needed to be able to call yourself a specialist in personal injury law, the Texas Bar Association generally does not actively prosecute wrongdoers. Any attorney can buy a big slick ad in the yellow pages. The phone book company typically does not verify the claims that are being made in the ad. In many cases, the phone book company does not even verify that the person is a

licensed attorney in good standing. The long and the short of it is this: an attorney can advertise with minimal restrictions so do NOT base your entire decision on an ad you see on TV or Yellow Pages™.

- Be wary of big noisy commercials that have ZERO content. When searching for an attorney, one must look past the shiny mirrors and big flashy lights and really judge the attorney for what he or she has done in the LEGAL community. It is not enough to be a big face on the TV. The attorney must also be able to back up what he or she is promising. Again, past experiences do not lie (e.g. Google Reviews, Facebook™ Reviews). Sometimes the lawyer's advertising can negatively affect your own case. If your case goes to trial and jurors recognize your lawyer from his advertising, it may undermine your lawyer's credibility during trial. Do you want jurors to remember your lawyer as the one who can get "HUGE MONEY!!!" or "FA\$T \$ETTLEMENT\$" for your injuries?? Jurors watch TV too, don't you know?

Bottom Line: When choosing an attorney, make sure the decision feels right. Please do not let the TV commercials and the smoke and mirrors detract you from the truth. The most flashy, well-known attorney is not always the best. Be sure and make most of your decision stem from the ability of the attorney. The aptitude of an attorney can be found from testimonials, Google, and Facebook Reviews, and word of mouth.

"It is hard to imagine a more stupid or more dangerous way of making decisions than by putting those decisions in the hands of people who pay no price for being wrong." - *Thomas Sowell*

Remember, only YOU can pick the right attorney!

Chapter VII

7 Fatal Mistakes That Will Ruin Your Auto Accident Case

- 1) Failing to call police and not getting enough information at the scene.

In some places, in Texas, police no longer respond to what they perceive as “minor” accidents, or if they do, they only show up to get the traffic moving again and do not actually interview witnesses, talk to parties, or write a report. This has led to an increase in “hit and runs” and at-fault parties making up stories about how the accident happened, giving insurance companies excuses to deny claims altogether.

Other times, people feel they don’t need to call police because it is a relatively straight forward case and they are assured by the at-fault driver that he will tell his insurance company it was his fault and that they should pay. The “at-fault” party may sound truly sincere and may even have good intentions at first. However, many times we have seen these at-fault drivers completely change their tune once they start talking to their insurance companies.

Furthermore, police do not investigate accidents that occur on “private property” like a supermarket or grocery store parking lot. As you can imagine, this leads to many hit and runs and many false tales by at-fault drivers to their insurance companies.

Therefore, what you should do even if the police show up but especially if they don't is:

- A. Get the at-fault driver's license with his address and phone number and any restrictions it may have (i.e. wearing glasses while driving, etc.)
- B. Get their insurance information, the company and policy number.
- C. Witnesses. Look around for anyone who may have seen what happened and get their name and address, phone number and email address. You can even take a short, detailed statement from them using the Herrman & Herrman App on your phone.
- D. Photographs of :
 - a. At-fault driver, in case we have to search for them on Facebook later
 - b. Witnesses, for the same reason
 - c. The vehicles, showing damage to each, and of the crash scene showing skid marks, debris field (usually the point of impact), yaw marks, gouges in pavement.
 - d. Traffic control devices (stop signs, stop lights, yield signs, etc.) You should even record the sequence of the traffic lights from all angles in case this is later disputed (especially yellow, green, and red arrows)

- 2) Waiting several days or weeks to get medical care, failing to follow up with appointments or having “gaps” in treatment.

Many times, because of excitement, shock, disbelief, fear, anxiety, or other emotions, you might feel an adrenaline rush that completely takes over your consciousness and you feel fine at the scene of the accident. You might even tell the police that you are not injured, don't need an ambulance, and are “fine” or “ok.” They will write it down on the police report and insurance adjusters will use that against you and deny your claim. Many times, after the excitement and adrenaline wears off, you then start to feel your injuries. It varies with the person but it could be hours, days, even weeks later until you truly start feeling all of your injuries. This is extremely common and insurance companies know it but they will still use it to minimize or deny your claim. Some adjusters even rush to your house to offer you some money to immediately settle your claim before you know the true extent of your injuries. They do it all the time and many people who need money will take the fast cash.

You should immediately go to a hospital or emergency room, a minor emergency center, a doctor, nurse practitioner, physician's assistant, chiropractor, or other health care provider who can, at the very least, check your vital signs, document you were in an accident, any current complaints, and schedule follow up appointments with them or with specialists. If any radiologic procedures (X-Ray's, MRI's, CT scans, etc.) are warranted, those can be prescribed as well.

If you fail to go to an initial exam in what the adjusters feel is a “timely manner” or fail to keep any follow up appointments, especially any therapeutic appointments, adjusters will use this against you, too, arguing that you “can't be hurt that bad” or you would not have missed an appointment.

I understand that many people think that they can just take some aspirin or ibuprofen and everything will be ok. They can just live with the pain. The problem with this approach is twofold.

First, if you really are injured seriously, aspirin or pain pills will not fix you and you are likely in for a lifetime of aches and pains that will never truly go away. In more serious cases, you might need surgery or could even die from internal bleeding. Even in the most common “whiplash” type injuries, your muscles could actually be torn in the sprain and strain and scar tissue will form in the muscle if it is not treated. Many of my clients, and even family members, continue to have problems years and even a lifetime after a whiplash type injury, mainly because they didn’t seek treatment immediately.

The longer you wait to seek medical help, the more ammunition you give them. The more times you miss a treatment (“gap” in treatment), the more ammunition you give them. If you take your case to trial, you are giving the insurance lawyer (whose nominal client is the at-fault driver but is being paid by the insurance carrier) the ammunition he needs to convince an already skeptical jury that you weren’t as injured as you claimed to be.

3) Giving too much information to the at-fault (negligent) driver’s insurance company

The negligent driver’s insurance adjuster will call you to get a statement as to how you say the accident happened and what, if any, are your injuries. You must remember the adjuster is not “neutral,” they work for the insurance company. The reason insurance companies have so much money (enough to win elections and get special laws written just to benefit them) is not because they pay out on every meritorious claim, but because they deny claims and minimize claims and pay out as little as possible. Many even get bonuses based on how much they save the insurance company. They know that if

they can get you to admit even the slightest amount of fault (negligence) then they can “deduct” that percentage (of your fault) from the amount they would otherwise have to pay. If they can get you to admit your fault is even slightly more than 50% then under Texas law they owe you nothing, zero, nada. Therefore, they will talk to you and take you through the action of the accident until they can pin as much as possible of the accident on you. This is what they are trained to do.

They will take you through your medical treatment and history and do the same to you. They will try and pin you down to only those injuries (“aches”) that you are feeling now. They may even say “Great, I’m glad you’re not more seriously injured” and some will offer to pay you some cash immediately to waive any future claims on injuries that come up, “generously” offering to pay the bills you incurred so far (even though you are partly to blame for the accident) just to “put this whole thing behind us”.

Sometimes, the insurance companies also take “recorded statements” of you asking the same questions (without a lawyer present) and will even ask for a “medical authorization” that allows them to get all medical records from any of your past providers, even back to your childhood. All this does is gives them ammunition to use against you later and to find seemingly minor past events to deny or minimize your injuries, claiming this was just an aggravation of an old or previous injury.

4) Refusing or delaying in hiring a lawyer when your injuries are serious.

Insurance companies have their in-house or 3rd party claims adjusters usually out to the scene of an accident as soon as possible if the accident appears serious. Big trucking companies have people who are specifically designated for accident investigations. They take photographs of the scene, the witnesses, the parties, the traffic

control devices, the lights, signs, skid marks, yaw marks, gouges in pavement, debris field, vehicles, etc. They interview witnesses, law enforcement, parties, bystanders, obtain cell phone records, etc. Sometimes they even pick up or collect evidence from the scene. They may download information from the electrical control module (ECM) or "black box" (similar to what airplanes have) that give information on speed before crash, when braking occurred, how long it lasted and a variety of other information. They are doing all of this, unbeknownst to you, and no one is working on your behalf, doing this for you, if you haven't hired a good personal injury lawyer.

The insurance companies and trucking companies don't have to turn this over to you and usually won't absent a court order. Sometimes this evidence, in their hands, mysteriously "goes missing" and they can't find it. Some insurance companies even immediately hire lawyers to "supervise" the gathering and collecting of the evidence and claim it is "attorney work product" or "attorney-client privilege" so they don't have to give it to you.

Shouldn't you have a good, knowledgeable personal injury lawyer on your side, collecting evidence as soon as is practicable?

Often times a lawyer can spot potential problems or anticipate defenses early on in the claim process and help you avoid or, if nothing else minimize them. Something the average person is not trained to do.

5) Hiding previous accidents and previous injuries or medical conditions from your lawyer.

Many people think previous injuries and accidents can affect their present claim, and the answer is, it's possible. The problem is that this assumption then leads some people to hide or lie about it to their own lawyer, the insurance company, and insurance lawyers. The biggest problem about withholding this information destroys your

credibility and ruins your case. If you do it under oath, then you are committing a crime called perjury.

You have to keep in mind that insurance companies have massive computer data bases that they share with other insurance companies. They have networks that they can access that keep records on every claim ever made. They know much more about your medical and your claim history than your lawyer does unless you tell your lawyer. If you don't tell us (your lawyer), you are asking us to fight with one hand behind our back.

Many times the previous injury is easily dissected to show it is not similar enough to the present one to have anything to do with the present one. More importantly, we can get a judge to keep it out of evidence because it has nothing to do with the present one. The one exception that lets it come in is for impeachment purposes to prove that you lied about it. Not only do they get to tell the jury about your previous injury, they get to tell them you are a liar and they should not believe anything you say.

I constantly tell clients they must tell me everything and be truthful. Occasionally, the client thinks he is smarter than all the lawyers, the adjuster, the nurses and other doctors that may review records, and he or she hides it or lies about it. This almost always ruins your case.

6) Making damaging statements to a doctor/nurse/assistant/staff

When you go see medical providers, there are nurses, physician assistants, doctors, even receptionists, secretaries and staff people who all have access to your "chart" and your "records." Sometimes doctors dictate in microphones to be transcribed later by a transcriptionist or secretary. Sometimes doctors write in "chicken scratch" that has to be deciphered later and other times various

nurses, assistants, etc., who see you merely to check your blood pressure, pulse and other vital signs, will fill out your “chart.” They sometimes engage in small talk and clients open their mouths and tell them all kinds of things about the accident. Sometimes the doctors, nurses, receptionists, staff, etc. write down what comes out of your mouth no matter how irrelevant it is. I have seen client’s speculations as to speed, time, and distance of vehicles appear in their medical records. I have seen client’s records reflect errors, inconsistencies, and other harmful statements whether because of braggadociousness, insecurities, or feelings of vulnerability. Things no one would imagine a doctor or staff would even write down, they do. The insurance adjusters and their lawyers can, and do, dive into those records looking for anything and everything they can find to use against you.

Paradoxically, I have had clients swear they told the doctor, nurse or other staff about “all” of the injuries or complaints but the nurse, doctor, etc. only wrote down 1 or 2 of my client’s complaints. Sometimes the doctor notes 1 complaint, the nurse another, and another staff member something else. Sometimes the client is asked to list all of their complaints and, in their own handwriting, they fail to list all of their injuries because they think they are only there to see that doctor for one problem and will see another doctor for their other problems. I can assure you this will be used against you in settling your claim or if you go to trial, against you at trial.

7) Social Media Mistakes (Facebook, Twitter, Snapchat, Meerkat, Periscope, Instagram, Livestreaming, etc.)

Many clients these days use at least one form of social media. They are constantly documenting their lives, especially the fun, cool, good parts of life. The problem is, once you submit a personal injury claim there is a good chance an adjuster might be watching you on social media. If they can’t do it themselves, they hire an investigator to follow you and take pictures and/or videos of you. If

you “check in” somewhere you are telling the investigator where you are. They can find a way to also see what you post on social media and to document it even if your settings are private.

As long as you are acting consistently with what you are telling your medical providers, lawyers and the adjuster, there is no problem. The problem arises when you are caught doing something that a seemingly injured person probably would not be doing. These activities can be engaging in sporting activities, dancing, even mowing the yard, carrying out bags of garbage, doing auto repairs in your front yard, etc. If you are telling your doctor you are so sore you can’t hardly move, but are posting photos and videos of you playing volleyball on the beach, this will destroy your case.

This might be an extreme example 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. They are in the business of making money. They make money when they pay out the bare minimum amount of money as they can to settle your claim. This is the adjuster’s job, most of them do it well, so don’t make it easy for them to deny your claim or minimize it next to nothing.

Chapter VIII

Knowing Your Insurance

Typically, when handling a bodily injury claim for personal injuries sustained in an automobile collision or premises liability claim, there is more than one avenue for recovery. Liability insurance is the insurance coverage afforded by the other driver; the driver that caused the collision (i.e. "third party"). When someone is at fault for the collision (negligent), he or she is **LIABLE** for the collision. In Texas, the minimum amount of liability insurance a driver can have is \$30,000 per person injured, and \$60,000 TOTAL for any one collision. Even if the at-fault driver injures 10 people, there is only \$60,000 in available money for the 10 injured people. All drivers in Texas are required to have liability insurance, although not everyone follows the rules. When at-fault drivers do not follow the rules, there are other forms of insurance to protect the injured person(s). Generally speaking, drivers in Texas have the minimum policy limits required by law (e.g. \$30,000 per person injured/\$60,000 per collision)

Personal Injury Protection (PIP) coverage is an extension of car insurance available in Texas and other states that covers medical expenses and can cover lost wages and other damages. In Texas, PIP coverage will cover medical expenses, 80% of lost wages, and someone to take care of the injured party. PIP is sometimes referred to as "no-fault" coverage, because PIP is designed to be paid without regard to who is at fault, or more properly, legal liability. Meaning even if the person seeking PIP coverage caused the collision, he or she is entitled to make a claim under the PIP portion of their

policy. Typically a PIP claim is made by the insured driver to their own insurance company, but there are a few exceptions (e.g., if you were injured in a vehicle of someone who has PIP coverage, you would be given coverage under PIP). MedPay coverage is also a type of coverage that can cover medical expenses. This portion of coverage is on your OWN policy and is not required by Texas law to have on your insurance policy.

Medical Payments coverage, also known as “MedPay” coverage, pays medical expenses for you and any passengers in your vehicle who are injured during a collision or auto-related injury. Medical Payments coverage protects you regardless of who caused the collision. This portion of coverage is also on your OWN policy and is not required by Texas law to have on your insurance policy. With this type of coverage, if there is coverage provided by the at-fault party, MedPay coverage is paid back to the insurance company. The main difference between PIP and MedPay is that MedPay has to be paid back if recovery is made from the at-fault party, and PIP does not have to be paid back. The process of being paid back for monies owed because of fault by another party is called subrogation.

Literally, subrogation means one person or party stands in the place of another. Subrogation issues come about when a person has been injured and some entity other than the at-fault person pays for all or some of the damages resulting from the injury. By definition, a subrogation claim allows the innocent paying party (known as a “collateral source”) to stand in the shoes of the injured party in order to collect the money paid by the innocent party. A common example of subrogation in action is health insurance. In an example, you get into a car wreck that is NOT your fault. You go to the hospital because you are injured. When you are at the hospital, the hospital asks you for your health insurance, which is quite common. In this scenario, if you

have health insurance (e.g., BlueCross BlueShield; United Health Care, etc.), it is likely that health insurance covered your visit to the hospital. Your health insurance wants to be refunded for paying medical expenses caused by someone else. In essence, if you are able to get money from the at-fault driver, your health insurance will want to get paid back by the at-fault driver.

Underinsured/Uninsured motorist coverage is insurance coverage afforded by *your* insurance (i.e., “first party”). In a collision where injuries are sustained, the liability insurance is initially responsible for injuries sustained in the collision.

In an example, Person A and Person B get into a car collision. Person B caused the collision by rear-ending Person A. Person A gets rushed to the hospital by ambulance, gets treated in the emergency room, and needs treatment from an orthopedic specialist. Person A incurred medical bills in the amount of \$35,750.00 for all of the treatment he/she received for injuries related to the collision. Person A contacts Person B’s insurance company. Person B’s insurance looks at the medical bills incurred by Person A and decides to offer “Policy Limits.” Policy Limits is a term used when an insurance company offers the total amount insured under the policy. In Texas, the minimum amount of any policy for bodily injury coverage on an automobile policy is \$30,000 per Person, and \$60,000 per occurrence.

In our scenario, Person A receives a release for \$30,000.00 from Person B’s insurance. Person A still has bills that have not been accounted for. Luckily, Person A has paid a premium for “Underinsured/Uninsured Motorist Coverage” under his/her insurance policy. Underinsured/Uninsured extends **coverage** to include property and bodily damage caused by a **motorist** with insufficient insurance. Under Texas Law, Person A is entitled to recovery from the

underinsured/uninsured motorist portion of his/her policy since Person B did not have enough insurance to pay for Person A's injuries.

There are very important steps that must be taken to properly file an Underinsured Motorist claim. The claimant must:

1. Get the "consent to settle" document(s) from the Underinsured Motorist Carrier;
2. Get a copy of the declarations page¹ of the Liability Insurance Company;
3. Send the declarations page and the release to the Underinsured Motorist Carrier;
4. Sign the release from the Liability Insurance Company; Send medical bills and records to Underinsured Motorist Carrier.

If all of these steps are taken properly and followed with caution, the claim will go without a hitch. It is always important to consult an attorney when handling this type of claim. Herrman and Herrman, P.L.L.C. takes all of the appropriate measures to guarantee great results for our clients. For more information on Personal Injury law, please visit <http://www.herrmanandherrman.com/>.

¹ The Declarations Page is the portion of an insurance policy that shows the amount of coverage afforded under the policy.

Chapter IX

Facts and Procedures of Personal Injury Trials

What you may not know is how exactly personal injury claims are handled in the court of law. If your case ends up going to trial, there are a few things worth noting that you and juries may not particularly be aware of. Because of how our justice system works and the tactics used by insurance companies, specifically in auto accident cases, it is advised that you hire a seasoned personal injury attorney in order to help you through this complex process.

Many things are kept from jurors for a variety of reasons. Some have already been discussed. Here are a few more that might surprise you:

- 1) Jurors are not allowed to know whether the defendant has insurance or not. If insurance is even mentioned the defense lawyer can ask for a mistrial. The theory is that if jury's knew that a defendant had insurance they would probably award more money than usual because it is "Just insurance money." In reality, the way it works is that insurance companies use this to their advantage picking and choosing which cases to settle and which to try. If the insurance company insures a nice 84 year old grandma who is totally at fault, they may choose to try this case regardless of the facts and injuries under the theory that jurors will not want to take food off of

grandma's table. Since they are not allowed to know she has insurance, many jurors will be reluctant to award a large verdict against grandma thinking she will have to pay it. She won't and everyone knows it but the jurors. This is blatantly unfair but it is the law in the state of Texas.

- 2) For all intents and purposes, if a lawsuit is filed and the case goes to trial, the defendant has insurance, or it is a big company with a "self-retention" fund big enough to pay any verdict. No good personal injury attorney is going to take a case and put hundreds of hours of his own time, his staff's time, and the courts time into it just to get a verdict and not be able to collect. Lawyers have to make a living like everyone else and we won't be in business long if we can't collect judgments. If you are a juror on a case and insurance is not mentioned (and it won't be except in rare circumstances) you can be assured that the defendants are covered by insurance or have so much money that they don't need insurance. Even that is rare. Most rich people and most big corporations didn't get big by taking chances like conducting business without insurance.

The insurance company makes all the decisions. The reason you are in the courtroom (whether you are a plaintiff, a defendant, or a juror) is because the insurance company decided not to pay what was asked by the plaintiff. They made the decision. They can compel the defendant to be there by telling him he has to cooperate in his defense or they will pull coverage. The insurance company selects and pays the lawyer for the defense. They decide how much to offer and whether to settle or go to trial. The insurance company even decides whether to appeal and how far up the appellate ladder to take the case if they are not happy with the result. Even though the jury never knows they exist, the insurance company is calling all the shots from first day of the claim until the case is closed.

Chapter X

Why I Wrote This Book

I put myself through college selling Kirby® vacuum cleaners door to door. Then, I started my own Kirby vacuum “shop” and taught others how to sell them so I could finance my law school education. I guess I have always enjoyed teaching people. Towards the end of law school, the Texas oil patch went bust (much like today) and my Kirby franchise was running on life support. Those were very, very tough times. In 1987, I decided it was time to close my Austin office and move to Corpus Christi to learn the art of practicing law with some big time lawyers.

Luckily for me the firm I worked for did both Plaintiff (human beings) and Defense (Insurance companies) work, so I was able to learn the art of personal injury law from both perspectives. I talked to numerous insurance adjusters who confided in me all of their secrets and tricks as I was “their lawyer.”

By 1992, I had had enough of representing big insurance companies and defending their insured (usually companies & corporations). Even if I was representing a person say, in a car wreck, as a defendant I knew they were not going to be paying any settlement or judgment. It was the insurance company who was the real party in interest. I wanted to represent injured human beings. I saw how the system was stacked against them. How insurance companies took advantage of people who didn’t know what they were doing and lawyers who claimed to handle “car wreck” or “personal injury” cases, but didn’t really know what they were doing. Many had never tried any case, much less a personal injury case. I have seen

these lawyers bungle a case up from the beginning to the point where it was unsalvageable.

I have also seen too many situations where good honest people, who have a good claim, make huge mistakes that ruin or negatively affect their case. I have seen people settle their cases for way too little because they need money now (or think they do) or because they think they need a lot of money to fight a big insurance company and think they have to pay a lawyer up front (more money they don't have).

I wrote this book to help educate injured victims about their rights and about all the pitfalls that may await them if they are not careful. I believe people deserve to have good, accurate information about the claims process, legal process and how to deal with insurance adjusters. People should also have enough information to help them find and hire a good personal injury lawyer. The lawyer you decide to hire makes a big difference. Insurance companies keep tabs on lawyers and they know which ones actually try cases and which ones they can intimidate into settling for less than the case is worth. My firm and I try cases. Insurance companies know that. Not all cases, but the deserving cases. The mere fact we are willing to go try cases makes the insurance companies pay us more to settle your case than they would pay normally.

I also wrote this book because it saves me a lot of time speaking to accident victims who call my office just wanting information. There is a lot of good information in this book and if someone wants to "go at it alone" they can at least know how the system works and what minefields they will be confronting. I cannot and will not take all cases, but feel it is my duty as a lawyer to educate people so they do not fall prey to insurance adjusters or hire unqualified, inexperienced lawyers who will ruin or under settle their case.

If you have been injured in an accident and need an attorney, then you owe it to yourself to read this book.

I have been handling accident cases since 1987 both in Texas and in other States. My practice is 100% devoted to accident and injury cases. Most of my clients are referred to me by satisfied clients and other attorneys. You can check out our Google reviews on the Web to see what clients say about us.

If my office takes your case, we will vigorously pursue the case against the insurance company, corporate defendant, state or other governmental entity we feel negligently harmed you. We routinely handle auto accident claims, trucking accident claims, construction accidents, wrongful death, product liability, medical malpractice, and other injury claims.

You can learn more about my practice and me at our website www.herrmanandherrman.com.

NOT INTENDED AS LEGAL ADVICE

This book is for informational purposes only. This is not intended to give legal advice about your case. All cases are different. This is not intended as a substitute for legal counsel about your case. I am prohibited from giving you legal advice about your case unless you hire me or my firm and we agree, in writing, to accept your case.

About the Authors

Gregory H. Herrman has been representing people injured in auto accidents, trucking accidents, worker's compensation, medical malpractice, product liability and other injury cases since 1986. He graduated from the University of Texas in 1982 and from Baylor Law School in 1986. He has obtained millions of dollars in verdicts and settlements for his clients. Mr. Herrman is a member of numerous professional organizations including the Corpus Christi Bar Association, Hidalgo County Bar Association, The State Bar of Texas, Texas Trial Lawyers Association, and The American Association of Justice, Million Dollar Advocates Forum.

William R. Privette was born in New Jersey, and moved to Texas, in 1998, with his family. Will attended high school in Colleyville, Texas, and received a golf and music scholarship to Texas Wesleyan University in Fort Worth, Texas, where he received his Bachelor's degree in Political Science, emphasizing in Pre-Law. Will participated in debate competitions for his alma mater, most notably in the National Moot-Court Championship for Mediation at John Marshall School of Law for three consecutive years. Will was also recognized as an outstanding delegate in the Model Arab League in 2008-2009, a multi-regional model competition in which university students from across the world learn about and compete as representatives from Member States of the Arab League. From TWU, Will was accepted to Texas Wesleyan School of Law (Now Texas A&M School of Law) where he earned his Juris Doctorate in 2012. Since being admitted to practice in Texas, Will has practiced in a variety of fields, including but not limited to: Family Law, Bankruptcy Law, Real Estate Law,

Consumer Law, Transactional Law, and most prominently, Personal Injury Law.

Minesh J. Patel is currently an associate at Herrman and Herrman P.L.L.C., who specializes in personal injury claims and litigation, including non-commercial and commercial vehicle collisions, as well as premise liability actions. An aggressive and charismatic attorney, Mr. Patel has quickly become known for his zealous pursuit of justice for his clients, securing a number of large settlements for clients throughout South Texas. Growing up in Plano, Texas, and a graduate of The University of Texas at Austin and South Texas College of Law in Houston, Texas, Mr. Patel is a keen enthusiast of anything Texas. In his free time, he can often be found spending time with his family and friends enjoying the state, whether that be a night out on the town or a hike through Texas Hill Country.

Kristopher R. Rodriguez grew up in Dallas, Texas, and attended Texas A&M University Corpus Christi. Kristopher enjoys giving back to the South Texas region through education and service. He has had experience working with local non-profit organizations writing grants and other technological companies as a technical writer/editor. In his free time, he is out spending time with family and friends enjoying the beautiful South Texas weather. Kristopher currently works in the marketing department at Herrman and Herrman, P.L.L.C.

For a sampling of verdicts and settlements achieved by Gregory H. Herrman, in a variety of cases, please visit www.herrmanandherrman.com.



" I believe people deserve to have good, accurate information about the claims process, legal process and how to deal with insurance adjusters. "

Gregory Herrman built the practice on a solid foundation of honesty, integrity and dedication, protecting the rights of injured accident victims. He is committed to providing thorough and effective representation for injured victims and families of wrongful deaths and accidents. Although he cannot erase the devastation caused by negligent wrongdoers, he makes it his personal mission every day, to help these victims.

"Greg is experienced, tough, aggressive and is a formidable advocate for his clients, which he serves with both diligence and compassion. If you or a loved one has suffered a serious injury and are considering an attorney, I highly recommend that you consult with Greg Herrman."

-John F., McAllen, TX

"I am very very impressed with Herman and Herman and would recommend everyone to give them a call and be ready to get treated like an actual person and not just another case. Every case is different of course but what really matters is the way you are treated and cared for."

-Terry M., Corpus Christi, TX



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