
Introduction

When I was 13 years old, I went deer hunting with my father in Laredo, Texas. My family had a small business and we brought customers out for deer hunts in the wild west country. On this trip, my father drove our little motor-home to have extra room for guests. We packed the motor-home with about 10 different types of rifles and ammo, and my father took all of his camera equipment. He had a long-range, telephoto lens with an expensive camera and several other types of lenses that I don't remember what they did, but it was worth about \$10,000.00 in the 1970's!

We drove the motor-home (we called it a camper) into town one night to meet up and have a nice dinner with some of the customers that had flown into town. We parked the camper right under a street light, in front of the church, across the street from the restaurant we were meeting at for dinner.

We had a nice dinner and my father and I got back into the camper, but we noticed the vent window, that little corner window that is in older cars and would turn sideways when you pushed them open to "vent", was broken. We noticed the door was unlocked so we opened and saw that the camper had been ransacked. All of the guns were stolen and the big bag of camera equipment was missing. We had been burglarized! I can still feel that feeling of being violated to this day!

We made a police report and were given an offense report number for our insurance claim. My dad was not worried at all because he had been paying the insurance policy premiums for 20 years and this was his first claim. He knew the insurance company would make him whole and pay the full amount of the claim. He trusted them because he had been a good, paying customer for the last 2 decades with no claims on his record.

We made the best of the trip and drove back home to Louisiana where my father filed a claim with our insurance company for over \$10,000.00. It didn't take long to hear from the insurance company, they "offered" to settle my father's claim for a grand total of \$500.00!

I remember that sick feeling of being helpless and not knowing what to do or where to turn for help. I didn't know it at the time, but one of those rifles was supposed to be an early gift for my next birthday. But now, I was not going to get it because the insurance company was not being fair.

And they were dropping my family's insurance policy, too!

I watched my father go through the next year being **tormented by his own insurance company**. The company that he had been loyal to, and faithfully paid every premium for the last 20 years, was not going to make him whole and were offering pennies on the dollar to settle. My father was not educated enough to know that he could fight them so he after a year of going back and forth and providing receipts, bills of sale and photos of the stolen equipment, he eventually gave in and settled for that \$500.00. What else could he do?

I developed a deep hatred of insurance companies and their tactics and made it my mission in life to pursue justice for people just like my dad - people who didn't know any better and could have used help negotiating with that insurance company. This incident was the reason I decided to choose a profession in the law. I wanted to make sure that no insurance company could do this to anyone that called on me for help!

My passion for justice led me to law school where I won the American Jurisprudence Award for Torts (personal injury) for the highest grade in my class that year. I graduated from Tulane University School of Law in 1991 and have been a trial attorney ever since.

I have made it my mission in life to make sure that my client's don't have to suffer like my dad suffered when dealing with an insurance company. Times have changed and the law has changed but the insurance company tactics are still the same.

I decided to write this book to help explain what someone trying to negotiate with an insurance company will go through in the hopes that I can help you understand the process of an insurance claim. The more prepared you are, the better chance you have at successfully arguing your claim and successfully pursuing your claim. I wish I had been able to help my dad those many years ago with this book, so I am doing what I can now to make up for it.

I tried to make this book helpful to someone like my dad, that may not understand that **you do NOT have to accept** what the insurance company is telling you.

At the time I am writing this book, I have had over 1000 jury trials. I am Board Certified by the Texas Board of Legal Specialization, I belong to numerous National, State and local lawyer trial lawyer associations and other professional organizations such as the American Chemical Society and the National Trial Lawyers Top 100 Lawyers as well as the Georgia State Bar and the Texas State Bar. I have tried cases in the highest trial courts in the state as well as administrative courts, Federal District Courts and Justice of the Peace Courts. I hope that I can bring some of those experiences to help you in your fight to get fully compensated.

Be sure to read every chapter and every page and take notes, too. Good luck in your fight to get what is fair, for you and your family!

KELLY W. CASE

TABLE OF CONTENTS

	Introduction	1
1.	The three biggest mistakes that can ruin a personal injury claim	7
2.	Watch out for the bottom feeders	15
3.	What to do after an accident	23
4.	The 5 questions you must know to ask	32
	Epilogue	37

Chapter 1

There are three crucial mistakes that I routinely see many people make when they have been injured or in an accident. I have seen these so many times that I can usually predict when they have occurred within the first 10 minutes of meeting someone for the first time that has come to my office for help. Unfortunately, many times, they have come too late for me to be able to do anything to help them. So please make sure you read very carefully and NEVER make these same mistakes.

1. Accepting payments of any kind.

Makes no sense, right? You would think that accepting payment from your or another person's insurance company would do no harm. Unfortunately, it can do so much harm that you will never recover your full claim. Insurance companies know that they can pay you a small portion of the full claim amount and by cashing that check, you will have agreed that it will be your one and **final payment** from that insurance company. By cashing that check, you have just settled your claim, in full.

Tip: Before you cash or deposit any payments, make sure you have received the total amount of the settlement. Cashing a partial payment can cut off any further liability, leaving you responsible for all of the outstanding bills!

Take a drive downtown . . . in any town. Look at the biggest buildings and stadiums. They are all named after insurance companies or banks. There is a reason that insurance companies can afford to build and own those huge buildings - they don't pay claims. An insurance company is supposed to act in your best interest, they have a duty to put you first, as their client. But this rarely happens. They cannot make money if they paid out every claim filed against them. So they develop a whole host of strategies and tactics to force a settlement, paying you pennies on every claim dollar.

The biggest mistake - cashing that check, cannot be undone. I understand that when a family has been hurt and out of work, money gets tight. You might really need that check from the insurance company but you need to know that if you cash it - it will be the last payment you see from your insurance company. They know this and count on people needing the money so badly that they are willing to accept anything to get it, even if it means that they will never be made whole and fully compensated. This is not so bad if you are talking about a few weeks of missed work and no permanent damage - in other words, a very minor case. But if your injury is serious enough to keep you out of work, needing surgeries and physical therapy or seeing additional doctors for the next several years, you could be forcing yourself and your family into financial ruin by accepting that payment.

Even if you think the insurance company is being fair, check with a lawyer that handles these types of cases. Now, be sure that the lawyer you are talking to has handled personal injury cases because only a true personal injury lawyer will know the tactics an insurance company will use in these cases. It never hurts to have a professional review your case before signing anything or accepting any payment from the insurance company. Most personal injury lawyers offer a free consultation so take them up on it! It doesn't cost you anything and could save you from making a very costly mistake whose long term effects could financially devastate you and your family.

Tip: Most lawyers will offer free consultations and can answer questions about your claim - you may be making the best decision, but it does not hurt to have a professional look over your case.

Tip: There is an old saying, "If you think it is expensive to hire a professional, try hiring an amateur!"

2. Give a statement before talking to a lawyer.

Claims adjusters are ruthless. They have to be. They are the first point of contact that you have with your insurance company after a claim is filed. And they are trying to look out for their employer and their employer's money. Beware the claim adjuster that calls you repeatedly demanding an immediate statement. I have had clients that were receiving calls and visits from claim adjusters while still in the hospital!

Claims adjusters will record your statement and try to get you to say things they know will damage your case. Since they are the first point of contact for your claim, everything you tell an adjuster will be scrutinized repeatedly over the course of your claim. It can be used in any potential lawsuit you or your insurance company claim. An adjuster will seek to have their liability reduced. What I mean by this is that they will do everything they can to make every other insurance company involved, the primarily liable party. A claims adjuster loves nothing better than putting liability off on another insurance company. Once the blame game starts and the finger pointing begins, you will be the one to suffer. Delays will take their toll on you and paying your bills will become the priority for you. An insurance company that can delay and prevent you from obtaining justice right away knows that you are more likely to settle for much less. So they seek another responsible party and claim that they are not liable for your injuries, another insurance company is primarily liable. Deny, deny, deny. It should be the insurance company motto!

But take heart! You do not have to speak to the claims adjuster right away. Tell them you need to seek advice of counsel and would like a few days to talk to your lawyer. Make no mistake about it, you will have to give a statement to your insurance company, but not immediately after you have been admitted to the hospital or come out from under anesthesia. You can take a few days to recover before making your statement. So take your time, talk to a good personal injury lawyer and make sure you understand the tactics that will be used against you.

Tip: Keeping a record is vital during this time period. Go to my website at www.JudgeCase.com and download your free Personal Injury Diary to help you keep accurate notes.

During that intervening time, before you give your statement, it is a good idea to keep a journal of your experiences. Providing documentation what you are going through during your recovery can be very helpful later on. Ranking your pain on a scale of 1 - 10 every day and documenting your difficulties in your day to day life can show just how much the car wreck affected you. It can always help you and when done right, never hurt you. Go to www.JudgeCase.com and request your free Personal Injury Diary and start taking notes to help your lawyer. Being prepared and knowing what to expect will help you in the long run. I have never seen anyone that was worse off for keeping a journal of their personal injury and daily issue dealing with it and many times it can help significantly. Even if you are only documenting your mental state and how the accident has affected you through depression, phobia or increased anxiety, it is a tremendous aid later on, when memories fade and you have trouble recalling what you went through 2 years ago.

3. Being an amateur in a professional's game

I am 5'10". I am not short . . . I am vertically challenged! I loved to play basketball with friends, before a knee injury sidelined me from more than a 2 inch vertical! I even went to school with Shaquille O'neal back in the 80's. But I would never fool myself into believing I could seriously challenge Shaq. Can you imagine a 50 something 5'10" medium build guy like me, taking on one of the greatest player in the NBA. Like Dr. Phil would say - "How did that work out for ya?"

I have never competed at that level, nor have I been exposed to playing with other professionals day in and day out. Not to mention Shaq is about 2 feet taller and 200 pounds stronger than I am!

Even if you "should have gone to law school" or all of your friends tell you that you would have "made a great lawyer" the fact is, **you are an amateur**, no matter how much natural talent you may have been given. You are just an amateur in a professional's game!

I believe that hard work beats talent every day, especially when a professional does this every day . . . all day long . . . for over 20 years!

Being "familiar" with the law is not good enough. There are so many tricks and traps that can ruin your attempts to get back on your feet. The average person has no idea of the several different types of theories of liability that even though they may understand they need to be compensated for their injury, they may miss the additional claims that they rightfully could have pursued!

You only get one chance to win!

Judges will not help you in court when you represent yourself. The court personnel are not your friend and they will not help you. The insurance company lawyer is definitely not going to help you because the minute you filed a claim, the insurance company became your enemy. You will be on your own against some very skilled, experienced players. Just like I could never hope to compete against Shaq, you won't be able to truly handle a serious case on your own. This is no slight to you - I am sure that you would have made a great lawyer. But while you have been working, raising your family and provided for them, you have not been doing this all day . . . every day! Face it, you are a part-timer, at best! It comes down to experience and "time in the saddle" as my grandfather used to say!

Now, if we are talking about a minor injury or something that is strictly property damage, then you might fine. But it would still be a good idea to run it by an experienced lawyer - just to be certain you did not miss anything.

There have been many cases when I told the person I was meeting that they didn't need me. I have no problem saying that in certain cases. It is possible for a person to do it on their own - **IN CERTAIN CASES!**

But when you have been seriously injured and out of work for any length of time and the bills are piling up and you and your family's welfare is seriously threatened, you need a professional. You should never try to negotiate with the insurance company in a serious case and then, when that fails . . . try to get a lawyer. The damage has been done at that point and it may be fixable . . . but it may not be fixable, too.

So don't take a chance when it comes to dealing with an insurance company - at least talk to an experienced lawyer before you give it a go on your own. Make it down to the courthouse one day and watch how a trial really works - not what you have seen on TV. Don't be an amateur in a professional's game.

Tip: There are some types of cases that you can handle yourself. There have been numerous times when I have told someone that they don't need me . . . but when you do need a lawyer, you should NEVER try to go it alone.

If you THINK you MIGHT need a lawyer . . . chances are . . . you DO NEED A LAWYER!

Chapter 2

Watch out for the bottom feeders.

It is illegal for an attorney to solicit from anyone. The complete rule is Rule 7.3 of the Georgia Rules of Professional Conduct. The rule is below. If you have a burning desire to research it, the link is:

<https://www.gabar.org/barrules/handbookdetail.cfm?what=rule&id=149>

A lawyer shall not send, or knowingly permit to be sent, on behalf of the lawyer, the lawyer's firm, lawyer's partner, associate or any other lawyer affiliated with the lawyer or the lawyer's firm, a written communication to a prospective client for the purpose of obtaining professional employment if:

it has been made known to the lawyer that a person does not desire to receive communications from the lawyer;

the communication involves coercion, duress, fraud, overreaching, harassment, intimidation or undue influence;

the written communication concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or a relative of that person, unless the accident or disaster occurred more than 30 days prior to the mailing of the communication; or

the lawyer knows or reasonably should know that the physical, emotional or mental state of the person is such that the person could not exercise reasonable judgment in employing a lawyer.

Written communications to a prospective client, other than a close friend, relative, former client or one whom the lawyer reasonably believes is a former client, for the purpose of obtaining professional employment shall be plainly marked "Advertisement" on the face of the envelope and on the top of each page of the written communication in type size no smaller than the largest type size used in the body of the letter.

A lawyer shall not compensate or give anything of value to a person or organization to recommend or secure the lawyer's employment by a client, or as a reward for having made a recommendation resulting in the lawyer's employment by a client; except that the lawyer may pay for public communications permitted by Rule 7.1 and except as follows:

A lawyer may pay the usual and reasonable fees or dues charged by a lawyer referral service, if the service:

does not engage in conduct that would violate the Rules if engaged in by a lawyer;

provides an explanation to the prospective client regarding how the lawyers are selected by the service to participate in the service; and

discloses to the prospective client how many lawyers are participating in the service and that those lawyers have paid the service a fee to participate in the service.

A lawyer may pay the usual and reasonable fees or dues charged by a bar-operated non-profit lawyer referral service, including a fee which is calculated as a percentage of the legal fees earned by the lawyer to whom the service has referred a matter, provided such bar-operated non-profit lawyer referral service meets the following criteria:

the lawyer referral service shall be operated in the public interest for the purpose of referring prospective clients to lawyers, pro bono and public service legal programs, and government, consumer or other agencies who can provide the assistance the clients need. Such organization shall file annually with the State Disciplinary Board a report showing its rules and regulations, its subscription charges, agreements with counsel, the number of lawyers participating and the names and addresses of the lawyers participating in the service;

the sponsoring bar association for the lawyer referral service must be open to all lawyers licensed and eligible to practice in this state who maintain an office within the geographical area served, and who meet reasonable objectively determinable experience requirements established by the bar association;

the combined fees charged by a lawyer and the lawyer referral service to a client referred by such service shall not exceed the total charges which the client would have paid had no service been involved; and

a lawyer who is a member of the qualified lawyer referral service must maintain in force a policy of errors and omissions insurance in an amount no less than \$100,000 per occurrence and \$300,000 in the aggregate.

A lawyer may pay the usual and reasonable fees to a qualified legal services plan or insurer providing legal services insurance as authorized by law to promote the use of the lawyer's services, the lawyer's partner or associates services so long as the communications of the organization are not false, fraudulent, deceptive or misleading;

A lawyer may pay for a law practice in accordance with Rule 1.17.

A lawyer shall not solicit professional employment as a private practitioner for the lawyer, a partner or associate through direct personal contact or through live telephone contact, with a non lawyer who has not sought advice regarding employment of a lawyer.

A lawyer shall not accept employment when the lawyer knows or reasonably should know that the person who seeks to employ the lawyer does so as a result of conduct by any person or organization that would violate these Rules if engage in by a lawyer.

The maximum penalty for a violation of this Rule is disbarment.

Tip: In my opinion, disbarment is not enough. Anyone preying on someone else's pain and suffering should go to prison.

I know that reading rules of ethical behavior for lawyers is one of the most exciting things that you will do today . . . but I included it for a reason. I have personally seen the devastation caused by a “bottom feeding” lawyer. Usually the injured person is desperate and does not know where to turn. They have been subjected to a “hard sell” and feel like they must sign with someone . . . anyone, just to get some sort of relief.

The sad fact is that most of these lawyers will have very little or no courtroom experience and will take the first offer that the insurance company decides is enough to make the case go away, but not force them to spend too much money. Because a legal agreement allows a lawyer to settle on behalf of their client, most people don't realize how badly they have been screwed until it is too late. Usually before the ink is dry, they realize their mistake.

Reputable, winning lawyers would never solicit or “run” your case. You will never be approached by anyone at my firm in an attempt to “sign you up.” I personally feel like disbarment is not severe enough and believe we ought to return to public flogging of these so-called lawyers.

There will always be a seedy, corrupt element that thinks there is nothing wrong with taking advantage of you when you are desperate for help. I have seen it many times in the last 25 years. But know this, you don't have to sign with anyone - if you have a legitimate case, you can pick and choose the firm that suits you the best. There are many good lawyers out there that are working hard for their clients and treat their clients very well by returning phone calls, keeping the client informed and making sure that the client is informed about all aspects of their case. So if you are approached by a bottom feeder, get all of their information and then do the following:

1. Report them to the State Bar of Georgia by contacting Paula Frederick, general counsel for the State Bar of Georgia at paulaf@gabar.org. Ms. Frederick's phone number is (404) 527-8720.

2. Contact your local prosecutor's office and provide them with the details, in a written complaint.

Nothing will change unless you take the steps to file a written complaint. This is so serious that any attorney caught doing this can be disbarred (lose their law license) forever and as of 2014, can be sentenced to prison!

Too many times I have seen the devastation caused by hiring a bottom feeder. I have been asked to take over cases where the previous attorney has made a mess and I am asked to come in and clean it up. In almost every case, I have refused to represent that poor person. Sometimes the mistake of hiring one of these bottom feeders is too great to overcome and the damage done by them is catastrophic. So be smart, research your lawyer through the State Bar. Check them for grievances. Check the testimonials they have on their website or other searches such as Avvo or LinkedIn. Call former clients if you can. Hiring an attorney for something that is this important can literally affect you for the rest of your life. You will not get a second chance to win this so make sure your first decision, is the right one!

Not only is it an ethical violation but since 2014 it has been a codified criminal act to engage in this practice. It is called "barratry." Georgia law OCGA 33-24-53 went into effect July 1, 2014. Stephen Lowry wrote a great article about it that you can find here:

<http://savannahnow.com/exchange-column/2015-09-11/georgia-cracking-down-illegal-runners>

To sum it up, a first offense is a misdemeanor with punishment range of up to 30 days in jail and \$1000.00 fine. Subsequent offenses carry felony range punishment at a maximum 10 years in prison and a maximum fine of up to \$100,000.00.

Finally, the State Bar is taking this seriously and punishing those involved with this reprehensible behavior!

Chapter 3

What to do if you are in an accident?

This seems pretty obvious and even though it seems like common sense, it does take some forethought on your part. Will you be ready when the time comes or will you trust that your and your family's future can be trusted to an insurance company?

1. The first thing is the most obvious - **Get Medical Attention Immediately**, if you need it. Modern medicine is amazing and keeps improving all of the time. Injuries that were thought to be life-threatening just a few years ago, are now treated as if they were commonplace, with the right trauma treatment. Usually, the quicker that you get medical attention, the better your recovery chances will be.

Just a few years ago, a person suffering a stroke was considered untreatable and only a lucky few managed to survive after suffering a stroke. They would have gone through physical therapy to get better but not much could really be done right in the beginning phase, immediately after they suffered the stroke. Detection of potential problems has improved dramatically, as have the immediate treatment response which can lead to a greater chance of recovery. We have gotten better at finding problem areas before the stroke happens, treating them, and using medicine to solve the problem before it becomes life threatening. This has all be done in the span of the last 10 years, where before that, you may have died on the operating table before the physician even knew what was wrong!

The sooner you can get proper medical treatment, the better off your chances are at making a full recovery. So even though it makes perfect sense, some people do not get timely help and cause an even greater injury than they would have suffered with swift treatment. I know this from personal experience!

When I was in law school, I was playing softball with other students near the end of my first year. One section of the class and their professors were playing the other section, along with their associated professors. I had gotten a home run on my first time at bat and came up for my second at bat. The whole school was watching and I really wanted another home run. The pitch came from the professor and I took a mighty swing, but got under the ball and popped it up. Luckily I got enough of it to send it into the outfield beyond the center fielder but not far enough to be over the fence, again.

I was watching the center fielder as I rounded first, still thinking that if I ran this out the right way, I might be able to stretch it to at least a double. The center fielder had other ideas. I accelerated after I hit first base and tried to slide under the throw at second base. I slid into the bag hard, not realizing it was a professional bag that was cemented into a box in the ground. I bruised my leg really bad, but I could stand and thought I was OK. A short time later, I realized that I was hurting a little more than I should have been and called for a runner to take my place. By that time, the adrenaline dump was over and the pain was setting in. I immediately iced and just felt a little sore so I didn't think much more of it.

I went out to dinner with the gang and went to bed after taking some Advil but woke up the next day and could not walk or put in any weight on my leg! In fact, as I got out of bed the next morning, I fell to the ground with my leg twisted out at an odd angle! I thought to myself, "That's not right!"

I couldn't straighten the leg or stand at all. I spent the next week getting ready for finals and occasionally researching orthopedic physicians. I finally made the call for an appointment with a highly recommended doctor. He sent me to get an MRI (Magnetic Resonance Indicator) that would show what was going on in my knee. Sure enough, I had completely torn ligaments and cartilage and cracked the knee cap. Small wonder I couldn't walk or stand!

I was told I needed surgery right away.

But I was less than 2 weeks away from finals and if I didn't complete those, I would have to repeat my entire first year of law school! "No way", I thought.

"I will just suck it up and have the surgery after I am done with my finals." So, I decided to wait before having the recommended surgery.

HUGE MISTAKE!

You may be wondering what happened?

The damage to my knee was so severe that I needed surgery, a week in ICU for recovery and then a long recovery period with lots of physical therapy; 2 - 3 hours a day! I worked really hard at getting better and after many months (OK, 2 years!), I was finally able to fully flex and bend my knee.

But the pain was persistent.

It turns out that because I waited to have the surgery, my thigh muscles had gotten so weak, it was almost impossible to work them back into shape. That led to a lot of instability, causing arthritis.

It would be 4 more surgeries and finally a total knee replacement before I would be pain free - almost 30 years later! Had I known what the end result was going to be, you better believe I would have had that first surgery right away; finals be damned!

So the moral of the story is - don't wait to get medical attention because you really never know the full consequences and damage that can be done by waiting!

2. **Call 9-1-1 or your local police to make a report**, if possible.

A police report is an essential part of the case that an insurance company will require. Not calling or filing a report will severely impact the future of any claim you may have. Insurance adjustors refuse claims based on this alone. I have seen debilitating injuries occur after a person thought they were “fine and really didn’t need to bother the police.”

Make the report. You can **NEVER** predict your own injuries. Ever drop a carton of eggs. Why are some eggs broken and others are not? Who can say how serious your injuries are without proper medical examination? Take every accident seriously!

Tip: When you have been hurt, never put off getting the proper medical care. If you are worried about how to pay for it, your lawyer can discuss a Letter of Protection (LOP) with your doctor so that you can be seen and properly treated by your doctor.

3. While on the scene, obtain all of the witnesses contact info.

Everyone has a cell phone with a camera. I used to tell people to carry a disposable camera in their cars so they could photograph any damage and the scene if they ever were in an accident. In fact, when cleaning out a car recently that we were selling, I found an old disposable camera in the glove box!

TIP: Always keep a pen and pad of paper in your glove box. If you are involved in an accident, you can have the witness write their information, while you are taking photos.

Photographs truly are worth a thousand words!

Some of the people witnessing the accident may later prove to have valuable evidence in addition to testifying about what they saw. You may find out a lot more from this witnesses later, that can bolster your case and help prove that you were not at fault.

Collecting the witness address, cell number and even the license plate number of their car can be invaluable later in the case. This is especially true when a year or more has gone by and the case is now positioning for trial

It really is “the more, the merrier” when it comes to witnesses.

4. **Contact a good Personal Injury Attorney** if you have a serious injury or will need a lot of time off from work for recovery.

But before you just contact anyone do some actual research about your prospective lawyer. Go to the State Bar website and see if the lawyer has had any disciplinary actions filed against them. While this won't tell you the whole story, you will get an idea of the type of person you may be dealing with.

I am extremely proud that I have NEVER had any disciplinary actions against me. That is because I have always exceeded my clients' expectations and sought to keep them informed of every occurrence on their case.

It's not enough that your lawyer have handled other cases. Your lawyer should know their way around a court room and had numerous trials in their past.

Your lawyer should know what it takes to being the insurance company to the table and should be negotiating from a position of strength - not hoping and pleading for a settlement.

When I was a newbie lawyer, I would go to the Courthouse in Galveston, Texas. I watched the greatest tort lawyer, Mr. Joe Jamail, take on a corporation that he claimed had stolen his client's software and converted it to their own use. He boiled down complex issues so that they seemed simple. He was so good in front of a jury that you could feel his confidence in the room. He was a fantastic speaker and knew how to keep a jury enthralled on even the most boring subject - computer software. After 6 weeks in trial, the jury agreed with Mr. Jamail and gave his client verdict worth \$300 million dollars. Mr. Jamail could negotiate from strength!

While there was only one Joe Jamail, your lawyer should be able to negotiate on your behalf and not be intimidated or willing to agree to any settlement offer that is not fair for you and fully compensates you for ALL of your damages.

5. **DO NOT SIGN ANYTHING FROM ANY INSURANCE COMPANY!**

I hope that is crystal clear to you by now and I will not belabor the point.

DO

NOT

SIGN

ANYTHING!

The Five Questions You Must Ask.

1. How long is this going to take?

Good question. Glad you asked!

I can tell the normal amount of time is anywhere from 6 months to 1 year on the average case. That is my “one size fits all” answer.

Truthfully, there is no way to tell. Your case may be so serious that it could take longer than a year, especially if it goes to trial. The main thing is to be able to pay your bills and continue with your life while this case is progressing. Taking care of yourself is the priority here. Your lawyer will be the one that sweats the details. By hiring the right lawyer, you will make sure you can sleep at night and be confident that the case will not take one minute longer than it needs to because of your lawyer’s delays.

Bottom line: It might be a year or more.

2. How will I be able to pay my medical bills?

While you are injured and unable to work, your lawyer can help you continue to see your doctor and any medical provider that you choose. A “letter of protection” (LOP) is sent by a personal injury lawyer to a medical professional to allow an injured person to obtain medical care they otherwise cannot afford on credit in exchange for a promise to pay for the services directly out of a settlement or judgment.

This LOP is the means that you will be able to continue your medical treatments without worrying about interruptions for lack of funds. Your lawyer can make sure that your doctor will continue all treatments and therapy you need.

3. Will you be the actual attorney handling my case?

It is not unusual for lawyers to refer cases to other lawyers when the case does not settle. Some lawyers are negotiators and others are trial lawyers. But it always seems like the trial lawyers end up getting the better settlements. That is because they have the ability to negotiate out of strength. A good trial lawyer know what a jury will do and is not afraid to go to the jury when a settlement would not fully satisfy their client's injury.

My firm does not do this. At Case Law, P.L.L.C., we try our own cases. Depending on the type of case, I may choose to affiliate with another lawyer who has expertise in an area that I feel would help my client, but I will be trying the case and handling all aspects of the case. Also, in those cases where I do chose to affiliate with another lawyer based on their type of expertise, the client's recovery is the same

Because I handle all of my own cases and do not "farm out" my caseload, I am able to charge less of a percentage for the recovery as you will see in the answer to the next question.

Tip: I have an expertise in cases where an accident is caused by drugs or alcohol. I am actually certified by Axion Labs in Chicago, Illinois in the Fundamentals of Gas Chromatography. This is the science used to test a person's blood for illegal substances. My certification is listed here: <http://www.forensicchromatography.com/graduates/>

4. What is your fee?

Always a good question - you need to know what you will be charged for representation. Good lawyers aren't cheap and cheap lawyers aren't good so you need to know up front what you are dealing with. I know that most reputable firms will agree to a percentage of the recovery in exchange for representing you. But this is not "free!" I hear that all of the time. "My lawyer is free!"

The misunderstanding comes from the fact that personal injury lawyers do not charge fees for their representation, up front. They take a percentage of the recovery on the back end of the case. This works out well for these types of cases, because it gives the lawyer incentive to work hard for the client and at the same time affords a client the opportunity to hire a great lawyer and not be forced into bankruptcy. It is a "win-win."

But there will be fees taken out of the recovery for court costs and expenses. Additionally, the percentage fee that is the attorney's portion can be stepped up as more work is required. In another words, if the lawyer can bring the insurance company to the table quickly and recover everything for the client before filing suit, the percentage fee is less. The more work involved, the higher the fee percentage. For example if your lawyer is actually forced to file a suit, the percentage of the lawyer's portion increases. If they are forced to try the case, it increases again. And if they are forced to represent you on appeal and any subsequent matter associated with the case, it can go up again. You need to know these numbers because they can seriously affect any recovery you get from a settlement.

5. How frequently do you try cases.

My favorite question! Realistically, most cases settle before they ever go to trial. Some settle on the day of trial! But the vast majority of cases settle. But your lawyer should be a trial lawyer to get a good settlement for you because only if the insurance company thinks it is going to lose will they ever come to the negotiating table. And the better your lawyer is, the more the insurance company wants to settle!

But if your lawyer has never tried a case, that is not a good sign. You need to know if your lawyer can handle themselves in the fast paced environment of a major trial.

I typically have between 10 - 15 trials per year. Yes, actual trials. Not just cases that are set for trial, but cases that I try.

Tip: Good lawyers are busy lawyers. A trial lawyer is the busiest of all, devoting 110% of their attention to the case they are trying. This means that your phone call might not be instantly returned by the actual lawyer, if they are in trial. Not to worry, in my office, my staff will get back to you and if they cannot answer your question, they will find the answer and get back to you.

Epilogue

I wrote this guide in the hopes that I could save someone the pain and anxiety of being faced with devastating injury and not knowing how to go about getting help or even knowing what to expect. As I mentioned, my father was forced to wrongfully settle a property claim in the 1970's and it became my passion to help others that may be facing the same situation.

We were lucky that we only suffered property damage and not a personal injury that would have left my family in poverty. But I have seen the devastation wrought by a greedy insurance company that pulls the same tactics in serious personal injury cases.

I don't want that to happen to anyone.

So where am I coming from? I was the former Judge of the 9th Judicial District Court. The highest trial court in the state of Texas. While I was on the bench I oversaw the court's transition to specialization and was responsible for handling some of the largest and most complex cases in the County. Also while I was on the bench, I helped transition the court to a completely automated computer docket system. A significant and vast improvement over the old method of paper dockets. In the 9th, we had trials scheduled every week on a variety of cases.

During my term, I was also Vice Chair of the Montgomery County Bail Bond Board. This board was the licensing body for the bonding companies in the county. Additionally, I served on the Board of Judges, a body comprised of all of the presiding judges of Montgomery County that developed standing rules for the courts and was responsible for hiring and firing personnel in various departments. Finally, I was the Presiding Judge of the Montgomery County CARE Program (Drug Court).

Drug Court was my heart and soul. I got involved with drug court because of the struggles and problems that my own children experienced. I knew that young kids and even adults that had a drug problem could not handle it on their own, no matter how in control they thought they were. I also knew that having a criminal record would scar a person for life and too many people were getting out of jail and prison with no hope of a meaningful future. I loved being in a position to help people that really wanted and needed to be helped. It was the best feeling in the world to see someone come out from under the haze of drugs and discover themselves and be reunited with their families. Of course it want's all rainbows and unicorns.

In 2015, I lost one of the participants to a heroin overdose. I did not act swiftly enough to issue a warrant and get him off the streets. As a consequence, he shot up and died. He was only 21 years old, the same age as my son is today. That hit home.

While I loved drug court, and being able to help people overcome their demons, I realized that what I really wanted to do was help people caught that had suffered a traumatic injury and needed help. I knew it was time to leave and go back to my passion of representing individuals against insurance companies.

I am Board Certified in Criminal Law. I am a member of the Bar of the United States Supreme Court, 5th Circuit Court of Appeals, the Eastern and Southern Federal District Courts and all courts of law in Texas and Georgia. I am a member of the American Chemical Society, The National Trial Lawyers Top 100 Lawyers, Georgia Trial Lawyers as well as several other national, state and local organizations that are too many to mention here. I have taught at numerous seminars including teaching the judges of Texas the science of blood testing in February 2016 at the annual Judges Conference in Austin, Texas.

In 2014, I was appointed by Governor Rick Perry to serve on the DWI Curriculum Committee for the State of Texas. That committee determines the training schedule for Texas Judges at numerous seminars across the state of Texas and is responsible for securing speakers to attend and present at those seminars.

Before working as a private attorney, going all the way back to 1991, I was a prosecutor for the Galveston County District Attorneys Office under the elected District Attorney, Michael Guarino. During my four years at that office, I was a misdemeanor prosecutor, Chief of the Bail Bond Department, Chief of a Felony Court, and finally Chief of Misdemeanor Division. I was in trial almost nonstop and was doing 3 -6 trials a day in JP Court. I loved being in trial and still do!

The best days were had in Justice of the Peace Court in Bolivar, Texas. I would take my fishing gear, load up to take the ferry over and then after court, spend the rest of the day fishing. What a great job!

My hope is for this guide to give you some understanding of the process of what you are about to go through, but more importantly, I hope that you now understand why you need an experienced lawyer guiding you through this process

I have been practicing law for 24 years as of the date of this writing! This year, will be my 25th year in practice. There is always something new to learn. I emphasize this when I am teaching lawyers at seminars - never be satisfied with what you know, because tomorrow it will be different.

Being hurt and needing help is scary. It causes anxiety and stress. I have seen it tear people apart. I have seen people push their families away and them to lose control of their lives and spiral out of control.

I don't want that to happen to anyone. So here is where the rubber meets the road - you would not be normal if you weren't anxious about being put in this position. Relax. Take some deep breaths and realize that you are not the first person to have to deal with this. With a great lawyer by your side, you will get through this.

“The right thing is NEVER the easy thing. If it were, anyone could do it.”

Leo S. Case (1927 - 2002)



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