



Five Secrets Insurance Companies Don't Want You to Know

Information Law Guide

Dear Friend:

If you (or someone you care about) have been injured in an accident, you are probably worrying about what to do next. Chances are, you are feeling angry that a stranger has suddenly turned your life upside down. You may be frustrated that no one is stepping forward to take care of the situation.

Shortly after an accident, you will probably be contacted by an insurance adjuster. You may be asking: “*Can I trust the insurance company to settle my claim fairly?*” You might be wondering whether it makes sense to talk to a lawyer about your legal rights. Regardless of whether you choose to deal with the insurance company on your own or decide to get a lawyer, you are going to have many questions.

Since 1984, we have been devoted to the aggressive and ethical representation of people who have suffered harm due to the negligence of others. Over the years, we’ve become increasingly frustrated about how hard it is for accident victims to get straight answers to their questions after an accident. We’ve learned that many accident victims cause irreparable harm to their legal claim because they decide to deal with the insurance company directly before obtaining legal advice. Making a claim for personal injuries has become such a hassle that many people just “give up” and don’t try to fight for what they deserve.

It is our sincere hope that this informational letter will help you learn the important things that you should, and should not do, after being involved in an accident. Even though we know many of the tactics and arguments insurance companies use against you, we are not permitted to give legal advice in this informational letter. We can offer suggestions and point out various pitfalls and traps, but please do not take anything in this letter to be legal

advice unless you have agreed to hire our firm, and we have agreed, in writing, to accept your case.

To help you figure out what to do in the confusing days and weeks that follow an accident, this letter contains five secrets that we've discovered and would like to share with you. We believe that these secrets may make a major difference in the final outcome of your personal injury claim. These valuable secrets are things that the insurance company doesn't want you to know.

WHAT IS A "PERSONAL INJURY" CLAIM?

A personal injury case, automobile accident case or wrongful death case is a type of claim in which a person has been injured as a result of someone else's negligence or carelessness. If the only damage in your case is damage to your car, then you don't have a personal injury claim. You may have a property damage claim. If both you and your car suffered damage, then you have both a personal injury and a property damage claim. In those situations, either your insurance company or the at-fault party's insurance company will usually take care of the property damage claim.

In the typical personal injury case, once an injured person has completed medical treatment, negotiations begin with the insurance company, in an effort to settle the claim for a fair amount of money. If no settlement agreement can be reached, a lawsuit must be filed by the injured person.

Once the lawsuit is filed, both sides engage in a process called "discovery." Each party is permitted to investigate and request information about what the other side is going to say at trial. The defendant will be permitted to have access to your medical history and work records, including your income tax returns. You may have to give a "deposition,"

which is a process where the defendant's attorney is permitted to ask you questions under oath. Likewise, your lawyer will be able to engage in discovery and investigate the defendant's background and the defendant's version of the accident. If your case does not settle and winds up going to trial, a judge or a jury will determine fault and damages.

PERSONAL INJURY "MYTHS"

- ▶ If you write the insurance company a letter, and are reasonable in your demands, you will receive a fair settlement proposal.
- ▶ When you are involved in an accident, and the insurance adjuster calls and requests that you give a "recorded" statement, you have to give the insurance company a "recorded" statement or they won't settle with you.
- ▶ The insurance company for the person who caused the accident is obligated to pay your medical bills and lost wages as they are incurred.
- ▶ If there has been an accident, and it wasn't your fault, there will be an insurance company stepping forward to pay for your medical bills, lost wages, injuries, car damage and car rental damages.
- ▶ There are laws that regulate the way insurance companies must treat injury victims and the insurance companies abide by those laws.
- ▶ If you go to court, and just tell your story, a jury will feel sorry for you and award you fair and adequate damages for all the harm and losses you have suffered.

HOW DO INSURANCE ADJUSTERS OPERATE?

Insurance companies are multi-million or multi-billion dollar corporations that are run by a board of directors. Insurance companies have stockholders, who expect to receive dividends on their investment. Insurance companies are in business to make money. The

key to making a profit in the insurance business is to pay less in claims. The less money the insurance company pays to settle your claim, the greater the profit margin for the insurance company.

The adjuster from the at-fault party's insurance company may be a friendly and likeable person. The adjuster may coach a Little League team, do volunteer work, or go to your church. Regardless of how friendly or concerned the insurance adjuster seems to be, his or her job is to protect the financial interests of the insurance company. Insurance adjusters are trained to take advantage of the fact that most claimants have little or no knowledge or experience in determining the fair value of their claim. They are trained to find a reason not to pay your claim. Adjusters use special techniques to get you to accept full or partial responsibility for an accident when it really wasn't your fault. If the insurance adjuster acknowledges that the other party was at fault, and caused damage to you, the goal will be to make sure that you receive as little compensation as the insurance company can get away with. Insurance adjusters are masters at getting you to minimize the nature and extent of your injuries and pain during tape-recorded telephone conversations.

Remember, the other party's insurance company is under no obligation to inform you of your legal rights. Even though the insurance industry maintains detailed statistics and databases on settlements and verdicts in personal injury cases, the insurance adjuster is under no obligation to tell you what the insurance company has paid out to settle similar claims.

Each year, thousands of people never take any action to recover the compensation they are rightly entitled to. This isn't because they don't want compensation. Of course they do. It's because they just don't know what to do – and, as a result, they don't do

anything. They simply take the money that's offered by the insurance company because they figure that's all they could get. Most people don't get help because they get bad advice from insurance companies or are afraid, intimidated or confused. Don't let that happen to you. In this day and age, we have found that doing nothing is one of the worst things you can do for you and your family.

SECRET #1:

INSURANCE COMPANIES DON'T WANT YOU TO HIRE A LAWYER

While it seems that most people should know how important it is to seek professional advice when they are injured in an accident, statistics show that many people don't. Here are five main reasons why people don't seek a lawyer:

- (1) They don't know if they need a lawyer, so they are afraid to talk to one;
- (2) They don't know a lawyer personally, so they don't look for one;
- (3) They aren't sure whether they can trust a lawyer, so they don't use one;
- (4) The insurance adjuster tells you that you will end up with less money if you hire an attorney, and people believe that's true. (By the way, it is absolutely not true);
- (5) They feel uncomfortable with the idea of "suing" the other party over an accident. I can't tell you how many times a hard-working injury victim has remarked, during their initial visit to our office, "*we're not the kind of people that go around suing other people.*" Many people operate under the mistaken notion that hiring a lawyer and making a claim will somehow cause additional harm to the party who caused the accident.

The issue of whether you should hire a lawyer to assist you in your personal injury case is a personal decision. You may decide that you do not need a lawyer. You might be suspicious of lawyers and prefer to deal with insurance company on your own. But before

you make that decision, you should be armed with the facts about the pros and cons of hiring a lawyer.

In deciding whether you need a lawyer, one of the first questions you should ask yourself is “*would the insurance company prefer to deal directly with me or would they prefer to deal my lawyer?*” Another question that you should be asking yourself is “*if I do hire a lawyer, and have to pay legal fees, will I end up with more money in my pocket?*” In a 1994 study, the Insurance Research Council, a research group funded by the insurance industry, found that injured people who decided to hire lawyers received over TWICE as much money as those injury victims who decided to handle their claims on their own. That was after paying the lawyer’s fees. Do you think that insurance companies want you to hire a lawyer when their own research shows they will end up having to pay you twice as much, as well as paying for your attorney? Not a chance.

We live in an era of constant, annoying and outrageous lawyer advertising where lawyers make promises that can’t be kept. Lawyers have also tarnished the legal profession by filing frivolous lawsuits. Frivolous lawsuits hurt everyone by delaying real claims from getting to court. It’s no wonder that the public is suspicious of lawyers. In spite of all the lawyer jokes you have heard and the non-stop lawyer advertising, there are many honest, hard-working and ethical lawyers who can help you deal with insurance company claims. While it is true that you will have to pay your lawyer a portion of the money you collect from the insurance company (usually 33% of the recovery), it is also true that a good lawyer dramatically increases your chances of getting a much larger settlement. But that doesn’t mean that hiring an attorney is easy and is the answer to all of your problems. The key is finding the right lawyer. There is as much difference between lawyers as there is

between different doctors, auto mechanics, or other professionals. You need to “do some homework” on the lawyer and choose carefully.

Some law firms are personal injury “factories.” They run television commercials morning, noon, and night and have billboards on every highway in town. They hire washed up TV or movie actors to appear in their commercials. They send annoying and offensive solicitation letters to accident victims within days of the crash. These personal injury “factories” specialize in getting as many cases as possible and handing them over to paralegals and legal secretaries to handle the case. They settle all their cases for much less they could have, in order to clear the case as quickly as possible to make room for the next one. Let us suggest that you need to steer clear of law firms that are personal injury “factories.” Don’t make the mistake of choosing a personal injury lawyer from television ads or solicitation letters. You need a law firm that will pay personal attention to you and make your case a high priority. You need a law firm who is available and will return your phone calls promptly. There is a big difference between the way you will be treated by a personal injury “factory” and personal injury law firm that is committed to putting the client first.

The best way to learn about a specific law firm is ask your friends and neighbors about them. If someone you know has used that firm in the past and has been satisfied with them, that will tell you a lot. If you know a lawyer, ask that lawyer who other lawyers in community refer major personal injury cases to. The lawyers in town know who the good personal injury lawyers are. Another way to learn is to ask the lawyers in the firm to send you some free information about themselves, and then to meet with them and ask any questions you may have. I want clients to ask questions of me, and of the lawyers and

paralegals who work at my firm because I want clients to be confident they have chosen the best law firm for them.

I strongly recommend that you insist on meeting at the law firm's office, so you can get a "feel" for the operation, and meet members of the staff. Some of the personal injury law firm "factories" employ a roving band of attorneys or investigators who go to your home or hospital and get you to sign a contract. Almost every personal injury law firm offers free initial consultations. Asking the following questions will provide you with some insight as to whether the lawyer has the necessary experience and skills to bring your case to a successful conclusion:

- Do you limit your practice to injury cases?
- Are you Board Certified as a "Civil Trial Advocate" by the National Board of Trial Advocacy?
- Have you been selected by your peers as one of the "Best Lawyers in America?"
- How many personal injury or wrongful death cases have you tried to verdict in your career?
- Is your firm recognized as a Pre-Eminent law firm by the Martindale-Hubbell Company, which rates lawyers nationally?
- Do other lawyers refer personal injury and wrongful death cases to you?
- Have you written any articles on the subject of personal injury law?
- Are you willing to have the accident investigated within 3 days of being retained?
- Do you have the resources to advance the funds to hire investigators and other necessary experts?

SECRET #2

YOU MUST TAKE IMMEDIATE ACTION TO PRESERVE YOUR RIGHTS

In the civil justice system, an injured party has a responsibility to prove that the other party was at fault and prove his or her damages. In a court of law, we call this the "burden of proof." After an accident, time is of the essence. There are important steps that must be taken immediately. Witnesses must be contacted. Physical evidence must be inspected and collected. It is necessary for you to follow-up with your doctor. The longer a

person waits, the less likely this evidence is going to be around when you need it. The longer it takes to obtain witness statements, the more likely that a witness will not recall important details. It is important to contact and interview important eyewitnesses before they are interviewed by the insurance adjuster for the other side. If the evidence is lost, or crucial witnesses cannot be located, your case may be worth much less because you can no longer prove the things that justify a higher settlement.

This is especially true because there is a “statute of limitations” that limits the amount of time you have to make a claim. You don’t want to finally decide to talk to a lawyer about your injury, and then find out the heartbreaking news that you cannot collect any money damages because you missed the statute of limitations. If you do nothing at all, you’ll end up having fewer options. You may be tempted to simply take what the insurance company offers. You can rest assured that doing nothing is exactly what the insurance companies want you to do. Doing nothing is the exact opposite of what you should do.

After an accident, it is important to seek immediate medical attention. Many people are taken to the hospital emergency room immediately after the accident but try to “tough it out,” even though they are in significant pain. Some people are even embarrassed about riding in an ambulance. You can bet that the insurance company’s lawyers will use this fact against you. One of the insurance company’s favorite arguments is to point out that the injured party “didn’t even go to the emergency room” or “didn’t even see his family doctor after the accident.” If you don’t seek medical treatment, the insurance company will argue that your failure to seek medical treatment means you really weren’t injured.

Let me encourage you right now. Please do not wait to take action if you are involved in an accident. Don’t be afraid to ask for advice or help. You might be thinking,

“But can’t I work this out with the insurance company.” Accepting a check from the insurance company before you have obtained legal advice and looked at all your options is a good way to ruin your case.

SECRET #3

TAKE PHOTOGRAPHS...AND MORE PHOTOGRAPHS

You’ve heard the old saying “a picture is worth a thousand words.” In personal injury cases, timely photographs of your injuries can be the difference between an average settlement and a great settlement. A photograph that is taken shortly after you are injured can be a very powerful tool in persuading an insurance company or a jury that your injuries were both serious and painful. If your injuries require you to be hospitalized, have a family member or a friend take photographs of your injuries at different stages during your hospitalization. If you have suffered a facial scar as a result of the accident, it is worth paying a professional photographer to take “close-up” photographs of the scars or wounds. Having a professional photographer obtain the photographs is relatively inexpensive and will be a great investment in your legal claim.

Many families have video cameras at home. Videotaping can also be a very effective tool. Videotaping an accident scene shortly after a crash can be invaluable in trying to “reconstruct” the movement of the vehicles before and after impact. Videotaping can show the “loss of range of motion” caused by an injury. Videotaping a loved one trying to get out of bed or walk up a flight of stairs with a walker or crutches can be “worth a thousand words.” When in doubt, obtain photographs or videotape.

SECRET #4

KEEP A WRITTEN DIARY – YOU’LL BE GLAD YOU DID

It’s amazing how quickly we forget the pain and suffering we have gone through. Writing down exactly what happened helps us remember. That’s why we take a shopping list to the grocery store or create a “to-do” list. One of the first things our office asks new clients to do is write down everything they remember about the accident (including conversations that took place at the scene of the accident) and keep a detailed diary of their daily pain and limitations. It sounds simple but a pain diary becomes a powerful tool for your lawyer to obtain a fair settlement. When we put together a settlement demand, we always quote from our client’s diary and it is very powerful. Your pain diary provides both me and the insurance carrier with vivid details of what it was like to live in your shoes while you were trying to recover from your injuries. It also gives the insurance company a clear idea of the type of testimony the jury would hear at trial.

SECRET #5

KEEP RECEIPTS OF EVERYTHING

Like it or not, dealing with insurance companies is a giant paper shuffle. When it comes to damages, the insurance company will insist that you provide “documentation” of every type of injury or loss you are claiming. Immediately after an accident, you need to start keeping receipts and documentation of any item of additional expense you have incurred because of the accident.

For example, if you are released from the hospital but are confined to your bed at home while recuperating, you may need the assistance of family members or friends to provide in-home personal services such as changing your dressings, preparing your meals,

and assisting you with toileting or taking a shower. You are entitled to recover the reasonable value of those services provided by family members or friends, even if there is no “bill” that is generated for those services. The key to recovering for in-home personal services provided by family members or friends is to keep a detailed log of what services were provided and the dates and times of those services. Likewise, if you have to hire someone to cut your grass, shovel snow, or clean your house, be sure to keep receipts to prove you paid money for those services. It’s amazing how many of these reimbursable expenses slip through the cracks unless you document those expenses and keep receipts.

DO'S AND DON'TS IMMEDIATELY AFTER AN ACCIDENT

- **Don't discuss fault;**
- **If you are feeling pain, seek medical attention immediately;**
- **Don't deny any injuries you have suffered;**
- **Locate witnesses and get their phone numbers, if possible;**
- **Do not give any statement to the other person's insurance company;**
- **Go back to the accident scene and take photographs;**
- **Take photographs of your injuries;**
- **Start a diary and write down things you remember about the accident;**
- **Don't make up injuries you don't have and don't exaggerate your pain;**

- Report the accident to your insurance company;
- Do not miss any doctor or therapy appointments;
- Obey all of your doctor's orders and restrictions;
- Hire an experienced and reputable personal injury lawyer ASAP.

CONCLUSION

After an accident, many people are frustrated, scared, intimidated and unsure of what to do. Sometimes, people find it hard just to ask for help or ask questions. This free report covers only some of the highlights of what you need to know and the actions you need to take to put you in the best possible position to negotiate a fair resolution of your claim with the insurance company. As you can see, it is an information game and there many potential traps and pitfalls for injury victims who are unfamiliar with the legal system. We cannot emphasize enough that immediately after an accident is the best time to obtain the assistance of an experienced lawyer. Evidence must be gathered and witnesses must be interviewed shortly after an accident. You can bet that the insurance company for the other side will be sending investigators to collect evidence at the scene and interviewing witnesses as soon as the at-fault party reports the accident.

As a lawyer who works with injury cases on a daily basis, I am becoming more and more concerned that honest, hard-working people are being taken advantage of by big, uncaring insurance companies. Don't let anyone harass you, force you or threaten you to sign any document or intimidate you into making a hasty decision. This informational letter details some of the things you need to know but there is no substitute for having a

highly trained and skilled attorney who is by your side every step of the way. It is my genuine hope that you take the time to obtain legal advice and help before the insurance company takes advantage of you. Remember, almost all experienced and reputable personal injury law firms offer free consultations and will only charge attorneys fees if you recover money from the at-fault party or their insurance company.

Good luck!

SWEENEY LAW FIRM

**David L. Farnbauch
Board Certified Civil Trial Advocate
by the National Board of Trial Advocacy
(260) 420-3137
(866) 793-6339 (Toll Free)
dlf@sweeneylawfirm.com**