

Victor Finkelstein

Don't

WRECK

Your Injury Claim!



10 Rules of the Road to

Win Your Accident Case

in Missouri & Kansas

Don't Wreck Your Injury Claim

10 Rules of the Road to Win Your
Accident Case In Missouri and Kansas

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FORWARD

Who We Are, Why I Have Written This Book, And Why You Should Listen To Us

Before you get started, we would like to thank you for requesting this book. The information it contains can help you or a family member or friend in obtaining compensation for injuries caused by the negligence of another person.

We have written this book so that injury victims could have good, quality information about personal injury claims before hiring an attorney or dealing with an insurance company. As we will be the first to advise, not every case needs a lawyer! We truly believe, however, that you should have this valuable information right now, for free, before you are pressured by an insurance adjuster to answer their questions or settle your case.

Contrary to their advertising, and their media campaigns, an insurance company is not in business to be fair to you or to fully compensate you for injuries you have received. Like any other business, its goal is to make a profit. It does this by taking in more money selling insurance than it pays out in claims. Obviously, the insurance adjuster's loyalty is to his or her employer and the goal is to keep outgoing payments to a minimum. This goal is the opposite of yours. When you think about it, you are definitely not in good hands with the insurance company when it comes to claims. Thinking otherwise can lead to a personal injury disaster!

I first began representing injured people against insurance companies in 1987, pursuing injury claims on behalf of these individuals. We limit our practice to personal injury and work injury cases, so if you need legal assistance with a divorce, a will



or a business matter, we can't help you. You can find out more about us and our firm, Kansas City Accident Injury Attorneys by visiting us on the web at:

<http://www.kcaccidentattorneys.com>

For more than 15 years, we have represented accident and injury claimants throughout the states of Missouri and Kansas. Many of these cases are referred to us by former satisfied clients and by other attorneys. If we accept your case and you are not local, we will come to you.

Sometimes the best advice you can get when you are considering a lawsuit is that you do not have a winnable claim. If that's true, we'll tell you. We'll also tell you when we believe that you're better off handling a claim by yourself – without an attorney. But, if your case passes our test and we accept it, you can be assured that you will receive our personal attention. We will aggressively represent you, keep you up to date on what is happening in your case and give you our best advice as to whether you should settle your case or whether we should go to trial.

We will fully explain all fees and costs to you before we start working on your case. Together, as a team, we will decide the best tactics for your case.

For more than 15 years, we have represented accident and injury claimants throughout the states of Missouri and Kansas. I am licensed in Missouri and my associates are licensed in Missouri and Kansas. Many of these cases are referred to us by former satisfied clients and by other attorneys. If we accept your case and you are not local to the KC metropolitan area, we will come to you.

Sometimes the best advice you can get when you are considering a lawsuit is that you do not have a winnable claim. If that's true, we'll tell you. We'll also tell you when we believe that you're better off handling a claim by yourself – without an attorney. But, if your case passes our test and we accept it, you can rest assured that you will receive our personal attention. We will aggressively

represent you, keep you up to date on what is happening in your case and give you our best advice as to whether you should settle your case or whether we should go to trial.

We will fully explain all fees and costs to you before we start working on your case. Together, as a team, we will decide the best tactics for your case.

Fewer Cases for Us = More Time for You

We are “different”. We don’t rely on a high volume of cases. We don’t claim to handle every type of law. We don’t want to. We don’t need to.

Each year, we accept only a limited number of serious injury and accident cases from the hundreds of people who ask us to represent them. We are not a personal injury mill. Paralegals and assistants do not negotiate our cases with the insurance company. Fewer cases mean more time for you and, we believe, better results after all.

Why We Wrote This FREE Book

Year after year, we see insurance companies take advantage of people before they’ve a chance to talk to an attorney. For years, one major insurance company encouraged claimants to not to hire an attorney. While you may not need an attorney to represent you in your injury case you should be armed with the important information contained in this book right from the very beginning of your claim. We wrote this book so you can be informed, today.

Most attorneys require you to make an appointment in order to get the valuable information we’ve provided here in our book. We believe that you should be able to have this information, RIGHT NOW, and without any pressure. The decision to hire an attorney to represent you is a very important step that should not be taken lightly.

Candidly, this method of talking to you also saves us time. I've put a lot of information into this book and it saves us the hours of time that it would take each day just to talk to all of the new potential clients who call. We cannot and will not accept every case and, frankly, each year we turn down good cases that just don't meet our case selection criteria. So, rather than cut you short on the phone, writing this book gives us the opportunity to tell you what you absolutely need to know to make an informed decision about what steps you should take with your case. Even if we do not accept your case, we would like you to be educated about the process so that you don't fall victim to the insurance companies.

We Are NOT Allowed To Give Legal Advice In This Book!

We know the arguments the insurance company will make – and so should you – even before you file your claim. When you were injured you unknowingly entered a war zone.

The insurance industry has spent hundreds of millions of dollars to inflame the public against you and me. Rest assured though, that if we accept your case, you will not be alone in the fight - we'll be in it together!

We are not allowed, however, to give legal advice in this book. We can offer suggestions and identify traps, but please do not construe anything in this book to be legal advice until you have agreed to hire us and we have agreed, in writing, to accept your case.

Chapter 1

An accident has occurred and I believe
I have an injury claim. Now What?

LET'S START AT THE BEGINNING: You Have Entered a Combat Zone!

When the accident happened, you were thrown into a combat zone in a war between insurance companies and those individuals, like me, who are fighting to protect people injured through the fault or negligence of others. The war that is being waged is called tort reform. While you may not have had a dog in this fight before, now that you have been injured you are a part of the battle, like it or not.



The tort reform battle is a high stakes game, where millions of dollars have been spent by the insurance industry inflaming the public against people who pursue injury claims and their attorneys. Their goal is to attempt to severely limit the injured person's ability to obtain appropriate compensation for their injuries. The propaganda battle waged by the insurance companies and business interests have had a tremendous effect on juries and jury verdicts. Their success in tainting the minds of jurors has emboldened them not to offer fair settlements in many cases until you prove you are ready, willing and able to go to trial.

Like it or not, it is a war that now involves you if you seek to be fairly compensated for what has happened to you or a family member. Yes, there is battle to be waged, but it is a battle that you can win!

Separating Myth from Reality

There is so much disinformation out there about accident cases that we could write an entire book on them! After an accident, it is vital that you be aware of these myths. Some of the most common misnomers people have about injury accidents and the personal injury claims process are as follows:

Myth No. 1

If I write the insurance company a letter and am reasonable, I will get a reasonable settlement.

Myth No. 2

If the insurance company calls me asking for a recorded statement, I have to give them one or they won't settle with me (and I won't get any compensation for my injuries and property damage).

Myth No. 3

ALL LAWYERS who advertise that they handle accident cases have the same ability, tools and experience to handle my case.

Myth No. 4

The insurance company representing the person who hit me is OBLIGATED to pay my medical bills as they are incurred.

Myth No. 5

All lawyers charge the SAME FEES for injury cases.

Myth No. 6

The tort liability system is some sort of lottery that will help me get rich.

Myth No. 7

I've been involved in an accident and it wasn't my fault, so there MUST be some insurance company that will pay for my bills, lost wages and injuries.

Myth No. 8

Anytime a lawyer refers me to a doctor, it's a good idea.

Myth No. 9

Juries in Missouri are generous (so I'll automatically get what I deserve... I'm a nice person).

Myth No. 10

Juries in Kansas are generous (so I'll automatically get what I deserve... I'm a nice person).

What is a Personal Injury Claim?

We attorneys work with "personal injury," "accident cases," and "wrongful death cases" every day, and it can be easy for us to forget that you don't. In fact, people who have known us for years have asked us for a referral to an automobile accident attorney when we thought they knew exactly what we do!

Very simply, a personal injury case, automobile accident, or wrongful death case involves any type of claim where a person has been injured or killed due to someone else's negligence. Negligence is doing, or failing to do something, that society expects us to do or not do. For example, if I run a stop sign while driving, I have been negligent because society expects me to stop at stop signs.

If only your car got smashed up, you don't have a personal injury case - but you may have a property damage case. We do not handle property damage cases but there are many lawyers that do. If both you and your car have suffered injury, then you have both a personal injury and a property damage claim. In that situation, either your insurance company or their insurance company will usually take care of the property damage claim.

There are many varieties and causes of personal injury claims.

Personal injury claims can arise from motor vehicle accidents of all kinds; slip-and-fall accidents from a failure to take care of property; medical malpractice cases from a failure to provide proper medical care; and products liability cases arising from injury due to a harmful product.

When a death occurs as a result of someone else's negligence, this is called a "wrongful death" claim. This is a special type of personal injury case that involves claims on behalf of the deceased and the surviving family. The laws of Missouri and Kansas differ significantly regarding what may be recovered in such cases and it is important that you have an attorney who understands the specialized nature of such cases.

We won't take your case if you're already represented! If you are already represented by an attorney, this book may raise questions for you. Ask your current attorney these questions. Everyone does things a little differently and we do not accept cases in which another local attorney is already involved. If you are currently represented, use this book to increase your knowledge and to ask questions, but please don't ask us to take on your case. We won't.

What Must Be Proven To Win In EVERY Personal Injury Case?

Just because an injury or death has occurred does not mean that compensation is due in every case. In order win and make a recovery, in every personal injury case . . .

- You must prove that someone else was negligent;
- You must prove that you were injured and have damages; and
- You must prove that your injuries and damages were caused by the other person's negligence.

Thus, liability, damages and causation are the keys to success in an injury case!

If you have been in an accident that was no one else's fault, you do not have a case.

If you have been in an accident but were not injured, you do not have a case.

If you have been in an accident due to someone else's negligence and you have an injury but cannot prove that the injury was not caused by the accident, you do not have a case.

Chapter 2

I have read what you said, and I STILL
believe I have an injury claim.
Now What?

Consult with an Attorney When You've Got Everything to Lose



Following an accident that results in an injury or death, you will be confronted with a variety of issues that will require your attention. For example:

- Who is responsible for the accident?
- Who is going to take care of your property damage?
- Can you get a rental car? When?
- Who is responsible for your medical bills?
- If you don't have medical insurance, how will you get medical care?
- If you cannot work, who will be responsible for compensating you for lost wages?
- Should you give a statement to the insurance company?

Because these questions are of critical importance to you and because they come at a time when you are often least able to appropriately deal with them, we believe that you should consult with an attorney in order to be certain that you obtain the immediate information you need. While you certainly do not need an attorney in every small injury case, it often is hard to tell how significant your injury situation might be immediately following the accident.

It is better to be safe than sorry and a consultation with an attorney regarding your injury situation will cost you nothing.

Do I Really Need An Attorney To Settle My Case?

You definitely do not need an attorney for every small injury case and we will be the first to tell you if this is true with your case. In fact, our office does not even accept cases where there's little or no property damage and the injuries are minor. Why would we decline such cases? In the small case, the attorney fee and costs might leave nothing for you after your medical bills are paid, and we don't believe that would be fair to you.

How Do I Find the RIGHT Personal Injury Attorney for My Case?

Choosing an attorney to represent you is an important but daunting task. The decision certainly should not be made on the basis of advertising alone. The Yellow Pages are filled with ads - all of which say basically the same thing. You should not hire based solely on advertising - anyone can buy a slick commercial. In fact, you should not even hire us until you trust that we can do a good job for you.

1. First, we believe the world of personal injury, medical malpractice and work injury claims is too specialized for someone who does not regularly handle these types of cases. Too many times we have seen cases that have been handled by attorneys inexperienced in personal injury matters. The fact that an attorney can handle a divorce, draft a will or handle a speeding ticket, does not mean that he or she is the appropriate choice for an injury claim. You should be aware that the insurance companies that defend personal injury and accident cases know who the attorneys are in your area who handle these cases regularly and those that will actually go to court to try such cases. The insurance companies use that information to evaluate their risk. If this information is of importance to the insurance company, shouldn't it be

important to you?

We believe it is so important that you get to an attorney experienced in handling injury cases that we will be happy to provide you with the names and telephone numbers of other attorneys even if you don't become our client. These are people we have a great deal of respect for and that share our desire to see that an injured person is appropriately compensated for the negligence of others.

2. Second, we believe experience is an important factor in your decision making process. The longer an attorney has practiced in a given area, the better. Not only is the length of experience important, but also the nature of the experience. The more experience an attorney has actually litigating and trying cases is a definite plus. Past results do not guarantee success, but do demonstrate some level of experience and success.
3. Third, we believe that an attorney should be able to provide you with information just like this book and/or a web site so that you can find out more about the qualifications, experience and method of handling a case before you walk in the door.
4. Fourth, beware of any attorney who contacts you in writing just after you have had an accident for the sole purpose of soliciting your claim. If you are contacted "cold" it should instead be for the purpose of providing you free information that you can study on you own and on your own time.
5. Fifth, beware of an attorney who has a stable of doctors he wants to refer you to. As discussed previously, this can actually be the "kiss of death" to your claim.



6. Sixth, you should meet with the attorney. The attorney client relationship is a personal one and you should feel comfortable that you can work with the attorney and trust that the attorney can do a good job for you.
7. Seventh, you should determine how your attorney will keep you informed about the progress of your case. In our practice, we will provide you with correspondence related to your claim and will be happy to discuss the status of your matter with you at any time. We normally do this by way of e-mail in order to do this in a cost effective manner.
8. Eighth, you should find out who will actually be working on your case. Make sure that you and your attorney have a firm understanding as to who will be handling the matter. There are a lot of things that go on in a case that do not require a senior attorney's attention. On the other hand, if you are hiring an attorney on the basis of his trial skills, you need to be certain that he will be the one trying the case for you.
9. Ninth, be careful about an attorney who rushes you to sign a contingent fee contract. A contingent fee is not the right fee for every type of personal injury case. We have heard of instances where fee agreements are delivered by courier within hours of the time you first call the attorney's office. That's right, before you even have had a chance to meet with the attorney. This is outrageous. We have also heard of some attorneys employing "runners" to personally solicit accident victims, which is illegal and unethical. The "runner" hangs out of the police station or listens to police radio to "run" to accident scenes or hospital rooms to encourage victims to sign contracts with attorneys. Outrageous does not begin to describe this practice!
10. Tenth, get a referral from an attorney that you know.

If we do not accept your case, we can help you find an attorney. This is not meant to be all encompassing or an endorsement of any particular attorney, but simply to give you a good start! If you have any questions, e-mail us at info@kcaccidentattorneys.com.

Chapter 3

How will an attorney help me?

As Your Attorneys, What do WE do for YOU?

Here is a list of tasks that we may be called to do in your case. Please keep in mind that all of these tasks may not be necessary in every case and that each case is different.

- Initial consultation and interview with the client;
- Educate the client regarding personal injury claims;
- Advise client regarding property damage issues;
- Discuss medical care options with client;
- Obtain the police report concerning the accident;
- Interview known witnesses;
- Obtain photographs of the accident scene and injuries;
- Collect any other necessary documentary evidence;
- Analyze legal issues presented by the facts of the case;
- Review and analyze insurance coverages available to the client in connection with accident
- Offer suggestions concerning what coverages should be in place for adequate future protection;
- Obtain medical records and medical billings concerning client's medical care;
- Speak with client's physicians or obtain written reports concerning client's condition;
- Analyze client's health and auto insurance policies or welfare benefit plans in order to determine whether any money they spent to pay your medical bills must be repaid;
- Analyze the validity of any liens asserted on the case by doctors, insurance companies, welfare benefit plans and employers;
- Contact insurance companies and put them on notice of claim;
- When medical treatment has been completed, review and analyze treatment records;
- Prepare demand package;
- Determine appropriate value of client's case;
- Attempt to negotiate settlement with insurance carriers;
- If settlement cannot be reached, file suit on behalf of client;

- Prepare written discovery (questions and answers) on behalf of client;
- Take appropriate depositions;
- Prepare the client, witnesses and healthcare providers for depositions;
- Produce to the defendant all pertinent data for the claim such as medical records, medical bills, wage loss information, and tax returns;
- Prepare the case for trial and/or settlement before trial;
- Prepare the client and witnesses for trial;
- Organize the preparation of medical exhibits for trial;
- Organize the preparation of demonstrative exhibits for trial;
- Prepare for pretrial mediation;
- File briefs and motions with the court to eliminate surprises at trial;
- Take the case to trial before a jury or judge;
- Analyze the jury's verdict to determine if either side has good grounds to appeal the case;
- Make recommendations to the client as to whether or not to appeal the case.¹

Beware of the ERISA “monster”



You should be aware that often, if your medical bills were paid by the health insurance of an employer's health plan, the health insurance company or plan may want to get reimbursement out of any personal injury recovery. Your

¹ Our contract with you does not obligate us to participate in any appeal.

“insurance” turns out to be not insurance at all, but a “loan.” The laws in some states generally prohibit such claims by insurance companies, but they make the claims anyway. We have seen cases where the insurance companies hired lawyers to make the claims for them. What they don’t tell you is that this area of law, known as “reimbursement or subrogation” is actually quite complicated and is sometimes governed by a federal law called ERISA (The Employee Retirement Income Security Act of 1974). Your attorney must understand the implications of ERISA on your case. We have successfully defended our clients against many such ERISA reimbursement or subrogation claims.

Why Should You Hire Us

As we said at the beginning of this book, “we are unique.” Rather than run around trying to manage hundreds of cases at a time, we carefully select the few cases that we will accept at any one time.

There are many attorneys who advertise for personal injury cases. Unfortunately, some of these attorneys have so many small cases in their office that no case gets the personal attention. Others have no real intention of trying your case themselves and if the case cannot be settled with the insurance company, they will refer the case out for trial. There are good experienced attorneys in this field, but it is very difficult for a consumer to separate the good from the bad. You need to ask your attorney all of these questions.

Our clients get personal attention because we are very selective in the cases that we take. We decline hundreds of cases a year in order to develop personal, careful attention to those that we accept. We do not make money by accepting many small cases hoping to get a small fee out of each. We do offer our clients our unique Client Advantage Fees in injury cases. There are many attorneys who do masse advertising and accept small cases and we will be happy to refer you to several such attorneys. These firms are better staffed, often with younger attorneys and more paralegals, to handle many cases at one time.

What Cases Do We Not Accept?

Due to the very high volume of calls and referrals from other attorneys that we receive, we have found that the only way to provide personal service is to decline those cases that do not meet our strict criteria. Therefore, we generally do not accept the following types of cases:

Cases with no clear objective evidence of injury. Sorry, but if you have a sprained neck or back, but the x-rays, MRI's, and CT scans do not indicate a disc bulge or herniation and you have no muscle spasm or other such objective evidence of injury, then we will not accept your case. Insurance companies don't pay a lot for these cases because they know that local juries don't award significant sums of money without clear objective evidence of injury. There are plenty of lawyers who take these cases and we will be happy to give you the names of several of them.

Cases involving minor impact. Our experience with juries is that by and large, they do not believe that a minor impact could cause substantial personal injury. We have handled and tried or seen tried cases where we felt that the medical evidence was very strong, yet the photographs and the property damage showed little or no damage. Even though we had well qualified physicians to testify for our clients, these cases were either lost or received very little verdicts. Thus, we believe that the risk to the client is often too great to warrant pursuing these claims. There are other attorneys with different opinions about these cases and, again, we will be glad to supply you with several names.

Cases with less than \$5,000 of "hard damages." Your case must have at least \$5,000 in past and future medical bills and/or past and future lost wages before we will consider accepting it. We would like to represent everyone who needs a good attorney, but we cannot. So, the combined total of your past and future medical bills and lost wages must exceed \$5,000. If you have a question about this, contact us and we can help you figure it out.

Cases with significant pre-existing injury in the same body part. If you have had three back surgeries before this accident, then the chances of a jury awarding you a substantial amount of money for your back injuries here is very low. Again, we feel that it is not worth the risk to the client to pursue many of these cases.

Cases where the statute of limitations is about to run. We like to have at least four months to adequately investigate and evaluate your claim. Your delay is not going to become our crisis. If you have had several accident claims in the near past, then we will not accept your case. Jurors tend to look dimly on claimants who have a significant accident history.

We will not represent you if you are cited by the police for negligent driving in connection with the accident. We know that the police can be wrong; but if after interviewing the witnesses and evaluating the scene the policeman gave you such a ticket and not the other driver, then we will not represent you. If you have a question about this, contact us.

If your only care has been by a chiropractor, then we won't represent you. This goes along with what we said about having a serious back injury. We respect the chiropractic field, but our experience is that juries often don't. There are plenty of attorneys who are happy to try cases where the only healthcare provider is a chiropractor, but we won't.

We will not represent you if your case has already been filed. We like to do things our way. If you or another attorney has already filed the case, that's fine, but we will not handle the matter. The same goes if the case has been "non-suited" by another attorney. In Missouri and Kansas you can voluntarily dismiss your suit one time and then re-file it. If that has been done we will not represent you.

So, Are There Any Cases Left?

Yes, there are, and that's just the point. We are a small firm and accept a limited number of cases each year.

“We Concentrate Our Efforts on Increasing the Value of Good Cases – Not Filing and Chasing Frivolous Ones”

We represent many clients with valid claims. When we devote our time and resources to representing only legitimate claimants with good claims, we are able to do our best work. We have found that getting “bogged down” in lots of little cases, each with a “special problem,” is not good for our clients with legitimate claims.

Chapter 4

How can I protect my injury claim?

Leveling the Playing Field: The Essential Steps For Protecting and Winning Your Personal Injury Case

Regardless of the nature or size of your personal injury claim, there are “Rules of the Road” that we believe must be taken in order for you to increase your opportunity to win your injury claim. These steps are based upon our experience in handling injury cases for many years as well as our discussions with many judges, jurors and other attorneys. Although success in a personal injury claim can never be guaranteed, following these steps provides a firm foundation for a victory. Further, it is our belief from years of experience that a failure to follow these steps is likely to lead to a “personal injury disaster”. Don’t be a victim twice. Follow these rules!

RULE #1 Know Your Limitations

Unless your claim involves minor property damage and a minimal injury, or you have specialized training in handling injury claims and can perform all of the tasks set out above, you should seek the advice and counsel of an attorney. Getting well from an injury while you deal with your everyday life is enough of a task without adding the requirement that you have the expertise necessary to appropriately pursue a personal injury claim. What you don’t know can and will certainly hurt you.

If I make a mistake while attempting a do-it-yourself home improvement project, I can simply re-do it or later hire the work done by a professional. The only thing lost is time and money. If you make a mistake handling your own personal injury claim, it may well cost you your claim. You only get one chance to do it right!

A favorite trick of the insurance companies is to convince you that you can handle your own claim and that there is no reason to hire an attorney. Once you fall into that trap and thereafter

attempt to resolve your claim, the insurance company makes lowball offers that are clearly unacceptable and far less than the true settlement value of the claim. Unfortunately, once these offers are made, it becomes harder to find an attorney, as many attorneys are not willing to take the case on a contingent fee basis calculated on the recovery over and above the prior offer of the insurance company. In these situations the client may be forced to accept less than what they could have recovered had they hired an attorney from the outset.

RULE #2

Be Honest With Your Lawyer Regarding Past Accidents And Injuries

In order to be able to provide the best possible representation, an attorney must know of all prior accidents and injuries suffered by a client, no matter how small and no matter when they occurred. While such injuries may not have an obvious connection with the current injury, they may have an indirect connection that is unknown to you. They may not be relevant to your current claim, but your attorney is the person to determine this, not you.

Further, all insurance companies subscribe to a database that provides information to them about prior reported injury claims. In all likelihood, the insurance company will have information about any prior injury claims you have had. Often they will ask about such injuries simply to test your credibility. If you do not tell your lawyer about such accidents and misrepresent your accident and injury history to the insurance company, they will be able to call your credibility into question. They will argue that if you are not telling the truth about prior accidents and injuries, you are probably not telling the truth about the current injury. Credibility issues like this will destroy your case!

RULE #3

Be Honest With Your Lawyer About Other Injuries And Health Conditions

Similarly, it is vitally important that you disclose to your lawyer any injuries occurring subsequent to the accident in question and any other health conditions from which you may suffer. If you saw a doctor or health care provider, there probably will be a record about it and the insurance company will know about it. Whether or not such injury or health condition is relevant to your current claim is a determination that is not up to you! Your attorney can deal with any issues that arise from such information if he knows about it. If you are less than honest about such information and the insurance company finds out, your claim will be toast!

RULE #4

Don't Let Your Lawyer Control Your Medical Care by Referring You to Selected Medical Providers

Insurance companies and juries are highly suspicious of attorneys and doctors that have an established referral relationship. If an attorney directs clients to a particular doctor, there is the appearance that the doctor may be less than independent and providing favorable testimony due to a business relationship. You should never go to a doctor simply because your attorney directs you to. If every client is getting referred to the same orthopedist or chiropractor, there will be a problem. If an ongoing referral relationship is established, the insurance company will have a powerful argument in their favor, regardless of the appropriateness of the treatment provided.

Please be aware, however, that there is a big difference between directing that you see a specific physician and simply recommending a physician or physicians based on a particularized need. You may need specialized care and it is perfectly legitimate for an attorney to suggest physicians to you who may be able to provide the expertise needed. Even in these situations, be certain you ask about a business relationship and understand the nature of it, if any, between the attorney and the doctor.

RULE #5

Keep Your Lawyer Up to Date Regarding Your Medical Care and Injury Status

An attorney obviously cannot live with you or be with you each time you go to the doctor or other medical care provider. Because of this, it is important that you keep your attorney advised about how you are doing and what is happening with regard to your medical care.

This is vitally important information. If there are particular issues regarding your status or care that need to be addressed, your attorney can help you through such issues and help you in bringing them appropriately to the attention of your medical providers. A failure to keep your attorney advised may lead to more care than you need, less care than you need or even the wrong care. A failure to deal with treatment issues is a recipe for disaster!

RULE #6

Keep All Medical Appointments and Follow Through With Prescribed Care

It is vitally important that you keep all medical appointments and follow through with prescribed care. Insurance adjusters and jurors look skeptically at injury claims of people who fail to go to their scheduled medical appointments or fail to follow through with medical care prescribed by their doctor.

Obviously, it may not be possible to keep a scheduled appointment. If this is the case,



the client should reschedule preferably before the date of the appointment. If this is not possible, the client should reschedule as soon as possible thereafter and advise the doctor why the appointment could not be kept.

Prescribed medical care is also important. Unless the treatment recommendation is in some way controversial, you will have a hard time convincing anyone that you are still suffering the effects of the injury if you do not follow through with what a doctor has recommended. Remember, the burden is on you to prove the extent of your injuries. A refusal to undergo treatment suggests that you are no longer injured.

RULE #7

You Must Tell Your Doctors About the Extent of Your Injuries

When you go to the doctor for treatment, it is vitally important that you tell him or her of the full extent of your injuries. Men are particularly bad about this. Often the doctor will come in and ask how the potential patient is doing. Instead of saying not well and identifying their specific problems, men often simply say they are doing fine. If you are doing fine, why are you at the doctor?

Tell your medical providers about all of your problems. A doctor cannot diagnose and treat something he has not been told about. If you tell the doctor you are fine, odds are that he is going to believe you. Providing a detailed and complete history of your problems is not whining!

Doctors are busy people and often in a hurry to get to the next patient. If you need to write your complaints and questions down, do so in order that they not be forgotten in the crush of time.

RULE #8

Do Not Misrepresent the Extent of Your Injuries and Activity Levels

By the same token, you should never misrepresent the extent of your injuries and activity levels. Doctors have methods

of determining whether they believe you are exaggerating your injuries and insurance companies routinely hire private investigators to conduct videotape surveillance. If you claim that you cannot bend over, squat down or lift certain items and then get caught doing so on videotape, your claim is effectively destroyed. There is virtually no explanation that can effectively overcome the eye of the camera.

RULE #9

You Must Be Honest In Connection With Any Wage Loss Claim

Most accident claims will involve a claim for loss of income, even if they have been able to use sick days, vacation time or disability insurance to cover their time off work. These benefits do not accrue to the benefit of the person causing the accident and but for the accident you may have needed or been able to use such benefits for other illness, injury or time off work.

As with other parts of your claim, honesty is the key. If you exaggerate your claim and this is discovered, your overall credibility becomes an issue that can and will destroy your claim.

Similarly, not having accurate tax returns to document the extent of past income can also be a problem. If there is an issue regarding your tax returns, you should advise your attorney immediately so that he can deal with such issue appropriately.

RULE #10

Do Not Speak to Anyone Other Than Your Attorney About Your Case

You have probably heard the old adage, "Loose lips sink ships." What was true in wartime is true with regard to your injury claim. Your claim is your claim. It is a personal matter and not to be discussed with others.

Insurance companies and their attorneys not only use video surveillance, but also speak to your friends and neighbors about you and your injury claim. What you say to such people regarding

your situation is open to discovery. Inadvertent statements may be misunderstood or taken out of context in a way that could come back to haunt you.

About KCAIA

OUR SERVICES

Very simply, we are here to represent you at every step of the way in your personal injury claim. Our mission is to advocate your interests fully and ethically in a manner that is intended to compensate you as fully as possible for the injuries you have suffered.

Sometimes, the best advice we can give is that you do not have a claim that can be won. If that is our opinion of the case, we will tell you so. We are not here to pursue claims we believe have no merit. That would not be in our interest and is certainly not in yours.

If your case meets our criteria for acceptance, you can be assured that we will fully pursue your claim and provide you with the information and advice you need in order to be able to make your way through the legal process. We will keep you advised regarding the status of the case and whether the case should be settled or whether you should go to trial.

An initial consultation regarding your case is free. We will fully explain all fees and costs to you before proceeding. Together as a team we will decide on the best approach to a positive resolution of your claim.

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Free newsletters from Kansas City Accident Injury Attorneys

Want to know how best to deal with insurance company denials? Want to find out specific steps you can take to find the best lawyer for your case? Want to read the “inside story” about frivolous lawsuits? Would you like some practical advice about buying insurance from someone who does not sell insurance?

These are some of the topics that are covered approximately twelve times a year in a free newsletter sent to your home by me and my Kansas City Accident Injury Attorneys.

We strongly believe that most legal disputes could be avoided if people had better general knowledge about the legal system, insurance coverage and the insurance claim process.

There is absolutely no cost or obligation and from time to time we run contests to give away free stuff!

If you subscribe and later feel like we are wasting your time, there is an 800 number in every issue that you can call to “unsubscribe.” Don’t worry, this is not the boring “canned” newsletter that most firms buy and slap their name onto. We are actively involved in the writing process and we aim to provoke people to pay more attention to their legal affairs.

KANSAS CITY ACCIDENT INJURY ATTORNEYS

News You Can Use

Personal Injury | Medical Malpractice | Workers Compensation

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Making More Out of Less This Holiday Season

For many the holiday season is a time of partying, but for some the holiday season is also a time of financial strain. It's a time when many are looking for ways to save money during the holidays. Children expect to have plenty of their favorite toys and new toys, but many of the holiday season, while parents can't afford to look around wondering how they can make the season bright when there is less holiday green to go around.

Children and teens, even adults, can take away a little more understanding about the season and the true meaning of holiday gift giving. All they need is a little change in mindset and it can make the entire holiday season a little brighter. Children and teens can take away a little more understanding about the season and the true meaning of holiday gift giving. All they need is a little change in mindset and it can make the entire holiday season a little brighter. Children and teens can take away a little more understanding about the season and the true meaning of holiday gift giving. All they need is a little change in mindset and it can make the entire holiday season a little brighter.

So how do parents pull off a major partying shift just in time for the holidays? For starters, give older kids a chance to prove that they are mature and capable of understanding where things have to be dated back. Ask them to focus on two or three gift moderately priced gifts. Give them an idea of what to expect, not necessarily a price limit but an understanding of what is reasonable to ask. Or, in other words, if an iPad Continued on page 2

JUST ASK JIM

What are you most looking forward to this holiday season?

Our family is looking forward to spending some quality time together this holiday season. We will travel to Minnesota to see relatives and will enjoy snowmobiling, making a homemade ice skating rink on the frozen lake, and enjoying their Cardinals backyard hill. We are also looking forward to a trip to St. Louis to see relatives. There will enjoy watching fun family movies, relaxing at the coffee shop and ice skating at the outdoor rink.

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Victor B. Finkelstein has been litigating personal injury and workers compensation claims for over 23 years in the Kansas City metro region. He has represented injury victims and their families in both Missouri and Kansas in medical negligence, auto collisions, slip and fall, work injury and dog bite injury claims. He is experienced, thorough, and a tenacious advocate for his clients. He is partner at Kansas City Accident Injury Attorneys.

Victor Finkelstein



Inside This Book:

- ➔ **Myths and realities of injury claims**
- ➔ **How to protect you injury claim**
- ➔ **Find the right personal Injury attorney**
- ➔ **What must be proven to win every personal injury case?**

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