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**THE TRUTH ABOUT
MEDICAL MALPRACTICE
CLAIMS**

**THE ULTIMATE GUIDE
TO MEDICAL MALPRACTICE CASES IN
MISSOURI AND KANSAS**

THE TRUTH ABOUT MEDICAL MALPRACTICE CLAIMS

Why You May Not Make A Recovery, Even Though You Have A Serious Injury

Includes:

- **The scope of the medical malpractice problem today**
- **What is Medical Malpractice**
- **Why a bad result is not necessarily malpractice**
- **How the laws in Missouri and Kansas protect doctors, not patients**

FORWARD

WHO WE ARE, WHY WE 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 medical malpractice.

We have written this book so that medical malpractice victims could have good, quality information about medical malpractice claims *before* hiring an attorney. We truly believe that you should have this valuable information right now, for free, before you make any decision regarding 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 the 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 not about treating you appropriately, it's about saving the insurance company money. When you think about it, you are definitely *not* in good hands with the insurance company when it comes to a claim. Thinking otherwise can lead to a *personal injury disaster!*

I have been representing injured people against insurance companies since 1993, pursuing injury claims on behalf of individuals. At Kansas City Accident Injury Attorneys, 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.¹ You can find out more about us and our firm, Kansas City Accident Injury Attorneys, at our website at www.kansascityaccidentinjuryattorneys.com, a popular website with articles and information that you can download from the site.

¹ If you live in Missouri or Kansas, you can call us anyway if you have a case in one of these areas. We can usually provide you with the name of other attorneys who may be able to help with your situation.

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Each year, we accept only a limited number of serious injury and accident cases from the hundreds of people who the to ask us to represent them. We are not a personal injury mill and paralegals and assistants do not negotiate our cases.

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. 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.

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

We know the arguments the medical providers and insurance companies will make – and so should you – even before you file your claim. When you were injured you entered a war zone. The insurance industry has spent hundreds of millions of dollars to inflame the public against you and me. We will be in this 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.

THE SCOPE OF THE MEDICAL MALPRACTICE PROBLEM

The Harvard Medical Practice Study done in 1999 revealed that over half of all injuries caused by medical management (i.e., those not caused by the patient's initial injury) were preventable. Another 25% of those incidents were caused by negligence. Medical malpractice can occur at virtually any stage of treatment, and while most medical management injuries occur in a hospital setting, 20% of all medical management errors occur in a private treatment setting.

An article in the May 8, 2006, Wall Street Journal reported that a hospital in Wisconsin installed a "hotline" for staff to anonymously report medical errors and near-misses. Before the system was installed, the hospital received 250 reports per month. After the installation of the "hotline," the number of reports increased to 3000 per month. "The cases confirmed what administrators at St. Joseph's had suspected: The hospital wasn't adequately addressing safety issues."

Even doctors themselves, the ultimate insiders to our health-care system, find the system daunting. As reported in the Time Magazine article of April 23, 2006: *Q: What Scares Doctors?* *A: Being The Patient*, doctors themselves find that getting appropriate care is a challenge.

The most wondrous technology exists that can pinpoint the exact location of a tumor, thread a tiny catheter up into the brain to open a clogged artery, pulverize a kidney stone without breaking the skin. But the simple stuff--like getting an MRI on time, being given the right drugs at the right time, making sure everyone knows which side of your brain to operate on--can cause the biggest problems. 'A patient with anything but the simplest needs is traversing a very complicated system across many handoffs and locations and players,' says Dr. Donald Berwick, a pediatrician and president of the Institute for Healthcare Improvement. 'And as the machine gets more complicated, there are more ways it can break.' It requires almost a stroke of luck to enter a U.S. hospital and receive precisely the right treatment--no more, and no less. A landmark Rand Corp. Study published in 2003 found that adults in the U.S. received, on average, just 54.9% of the recommended care for their conditions. Average blood sugar was not measured regularly for 24% of the diabetes patients. More than half of all people with hypertension did not have their blood pressure under control; one third of asthma patients eligible to get inhaled steroids did not get them.

Most recently, a new report by the Institute of Medicine indicates that medication mistakes lead to the deaths of 7,000 persons a year and overall, harm at least 1.5 million Americans. The total financial cost of such errors exceeds 3.5 billion dollars. The study reflects that hospitalized patients are subjected to about one medication error a day, most often in how their drugs are prescribed or given.

As you can see, this is not the stuff of "frivolous lawsuits."

YOU ALSO HAVE HAD A BAD RESULT FROM MEDICAL CARE YOU RECEIVED AND BELIEVE THAT YOU MAY HAVE A MEDICAL MALPRACTICE CLAIM. NOW WHAT?

LET'S START AT THE BEGINNING

You Have Entered a Combat Zone!

When the medical care you received did not work out as planned and you first thought that you might have a potential claim, you were thrown into a combat zone in a war between insurance companies and those fighting to protect people injured through the fault 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 involves high stakes, 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 an injury victim'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 done, but it is a battle that you can win!

Separating Myth From Reality

There is so much disinformation out there about medical malpractice cases that we could write an entire book on them! It is vital that you be aware of these myths at the outset. Some of the most important are as follows:

Myth No. 1

A bad result is conclusive evidence of medical malpractice.

Myth No. 2

The law requires that you receive the best medical care possible.

Myth No.3

Your opinion that medical malpractice has occurred can be used in court.

Myth No. 4

If you write the doctor a letter and are reasonable, you will get a reasonable settlement.

Myth No. 5

Frivolous medical malpractice lawsuits are rampant and are increasing the cost of medicine for everyone.

Myth No. 6

All lawyers who advertise that they handle medical malpractice cases have the same ability, tools and experience to handle your case.

Myth No. 7

All lawyers charged the same fees in the injury cases.

Myth No. 8

A medical malpractice claim is like the lottery. If you win, you will get rich.

Myth No. 9

A jury is likely to side with a medical malpractice victim.

Myth No. 10

Juries in Missouri and Kansas are generous.

What is a “Medical Malpractice” Claim?

Very simply, “medical malpractice” is a fancy term for medical negligence. Medical malpractice occurs when a person is injured as a result of negligent medical treatment.

Negligence is a legal principle that deals with the standard of care that is expected of each of us in the way we conduct ourselves. Negligence is the concept of 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. In a medical case, the issue of negligence revolves around the standard of care that is expected of a medical provider in the provision of medical care.

The Standard of Care And The Need For Experts

What then is the appropriate standard of care in a given medical situation? In an auto accident case, such as the stop sign example above, you and I would have the ability to provide a reasoned opinion regarding the negligence of the drivers involved. This is based on our education, training and experience as drivers. We know the rules of the road and can form a reasoned opinion on the basis of our prior experiences.

Unfortunately, we generally do not have appropriate education, training or experience regarding medical matters and, therefore, are unable to provide such a reasoned opinion regarding the nature of medical care provided. Although a bad outcome may certainly be the result of negligence, it may also be something that can occur in spite of the best of care. It is for this reason that we must rely on medical experts to assist in these cases to help us define the appropriate standard of care and determine whether it was met.

In addition to the fact that a bad outcome is not in and of itself evidence of negligence, it is also important to know that the medical care provided need not be the “best” care. Instead, the care provided need only meet the minimum standard of care. Thus, while you might receive “state of the art” care at a teaching hospital or regional treatment center, such “state of the art” care is not required for example at a local community hospital.

What Must Be Proven To Win In Every Medical Malpractice Case?

Just because an injury or death has occurred does not mean that compensation is due in every medical malpractice case. In order win and make a recovery, you must prove the following:

- That a medical provider was negligent;
- That you were injured and have damages; and
- That your injuries and damages were caused by the negligence of the medical provider.

Medical malpractice cases are among the most difficult and expensive cases a lawyer will handle. Studies have shown that patients will win only 23-39% of the cases* that go to trial in front of a jury. For those that do win, the median jury damage award is only \$254,000.*

Your case must be proven by expert medical testimony. A doctor or medical provider in the same specialty as the negligent provider must be willing to testify that the conduct of the defendant fell below the accepted standard of care. Sometimes this is extremely hard to come by, even in cases in which the negligence is obvious.

In addition to negligence, you must be able to show that you suffered injury from the error and have suffered damages. Because of the tremendous hurdles in obtaining a recovery in a medical malpractice case, most experienced medical malpractice attorneys agree that the injury suffered must be significant. It is our belief that either the monetary damages (the medical bills and wage loss) must exceed \$100,000, or you must have suffered a significant and permanent disability or disfigurement to warrant the expense and risk of prosecuting a malpractice case.

ARTIFICIAL LIMITS ON RECOVERY IN MEDICAL MALPRACTICE CASES

MISSOURI AND KANSAS

Both Missouri and Kansas have adopted statutes limiting the amount of non-economic damages a victim of medical malpractice can recover. Non-economic damages are those to compensate a person for their past and future pain and suffering, what they have gone through and may continue to go through and the alteration of their lifestyle as a result of the medical malpractice in question. Regardless of the nature and extent of the injuries suffered or their ultimate result, \$250,000.00 is the maximum amount recoverable for such damages in Kansas. In Missouri, while the non-economic damages cap is significantly higher, tied to inflation and adjusted annually, it still serves to artificially limit the amount a medical malpractice victim can recover

for his or her damages. Although there is no limitation on recovery for economic damages involving medical bills and wage loss, the caps adopted by the Missouri and Kansas legislatures artificially protect negligent doctors and hospitals. Please check out the following examples of cases in which such limits clearly are inequitable.

ARKANSAS

Dialyn Powers

While at the hospital for a hysterectomy, a nurse-anesthetist taped Dialyn Powers' eyes closed and administered a drug to temporarily paralyze her, as part of normal pre-operative procedures. Proper pre-operative procedures also require the nurse-anesthetist to turn on the anesthesia gases, but Dialyn's nurse-anesthetist forgot. After realizing that he did not turn on the anesthesia, the nurse-anesthetist turned on the gases and gave Dialyn amnesia-producing narcotics so that she could not recall the surgery. The nurse-anesthetist did not tell the surgeon the anesthesia was administered late and allowed the surgery to proceed. Dialyn was awake and could feel the surgery for approximately 12-35 minutes. She could hear the scissors snipping. The paralytic drug prevented her from communicating with the surgeon. She prayed that the surgeon would stop the operation. Dialyn now suffers from post-traumatic stress disorder. Her damages were almost entirely non-economic.

COLORADO

Michael Skolnik

In 2001, 23 year old Michael Skolnik unexpectedly passed out. Worried, Michael visited a neurosurgeon, who indicated that his CT scan showed a colloid cyst. The neurosurgeon insisted that Michael be admitted into the ICU for observation. The neurosurgeon advised Michael that needed to have a ventricular drain inserted and brain surgery within two days. At the ICU, Michael had a ventricular drain inserted with a hand drill and then underwent a six hours of surgery. The surgeon never found the cyst. A later examination of Michael's CT scan showed that the procedure was totally unnecessary. The final 32 months of Michael's life included brain surgeries, infections, pulmonary embolism, blood clots, paralysis, severe seizures, and psychosis. Michael could not walk, talk, or eat. His vision was severely impaired. He wore diapers. He ate through a tube in his stomach. In June 2004, Michael had a severe seizure and died. Prior to the unnecessary brain surgery, Michael worked as an EMT and was trying to fulfill his pre-requisites for nursing school.

DELAWARE

Krista Roeper

Over the course of two years, 21 year old Krista Roeper went to her doctor 11 times and complained that she was experiencing rectal bleeding. Her doctor told her that the rectal bleeding was most likely caused by a hemorrhoid or a fissure. Her doctor never referred her to a specialist or ordered any tests. When she could hardly stand from abdominal pain, her doctor finally referred her to a specialist who diagnosed her with Stage III colon cancer. At trial, the doctor admitted he altered Krista's record after learning she had cancer. After fighting the disease for another year and a half, Krista died at home with her loving husband by her side.

FLORIDA

Ryan, Kim, and Kendyll Bliss

Kim and Ryan Bliss took their eight month old daughter, Kendyll, to the ER to have her minor cold treated with fluids. Unbeknownst to Kim and Ryan, the ER did not have any medical equipment to treat an infant. For two and a half hours, the ER nurse unsuccessfully tried to insert an adult IV needle into Kendyll's body. An hour later, the ER doctor arrived and inserted an adult IV into Kendyll's jugular vein. With the IV inserted, the ER nurse began to continuously squeeze the fluid bag "to get the fluid going." The ER nurse's actions caused air bubbles to form in the IV line. Immediately, Kendyll turned blue. The ER nurse did not try to resuscitate her and did not call for help. Instead, the ER nurse simply shook Kendyll as an attempt to "get her color back." Shortly thereafter, Kendyll passed away.

HAWAII

Arturo Iturralde

During the course of Arturo Iturralde's back surgery, the surgeon discovered that the titanium rods necessary for the surgery were missing. Instead of waiting for the screws to be delivered, the surgeon decided to cut up a screwdriver that he found in the operating room and implanted it into Arturo's spine. The screwdriver, which was not made for this use, fractured a few days later, causing Arturo severe injuries. Two and a half years later, Arturo died from the injuries he sustained as a result of the surgery. Arturo's surgeon had a history of drug addiction, license discipline, and malpractice. He was given a license to practice in Hawaii, even though his license had been revoked in two other states.

INDIANA

Frank Cornelius

After injuring his left knee, Frank Cornelius underwent routine arthroscopic surgery. Following the surgery, Frank experienced a great deal of pain. Frank's surgeon suggested that he "get a bedpan." Upset by his surgeon's lack of concern, Frank went to another surgeon, who immediately diagnosed his condition as reflex sympathetic dystrophy—a degenerative nervous disorder brought on by trauma or infection, often during surgery. Soon thereafter, during another medical procedure, a different surgeon used the wrong surgical instrument and left several holes in Frank's vena cava, the main vein from the legs to the heart. The surgeon's negligence almost caused Frank to bleed to death. While trying to save Frank's life, another physician punctured Frank's left lung. Frank is now confined to a wheelchair, needs a respirator to breathe, and suffers from continuous physical pain in his legs and feet.

LOUISIANA

Billy Arrington

Billy Arrington was having trouble breathing. Billy's doctor recommended that he be hospitalized; however, Billy's family doctor was not authorized to admit patients into the only hospital Billy's health insurance would cover. To solve the problem, Billy's doctor wrote a note to the ER instructing them to admit Billy for tests. The ER doctor that treated Billy had been

working for over 30 hours. The ER doctor did not conduct the tests Billy needed and sent him home. The ER doctor failed to diagnose a pulmonary embolism and blood clotting in the lungs. Billy passed away 70 hours later. Billy was only 42 years old and left behind his wife and two daughters.

MISSISSIPPI

Linda Mann

Throughout 1996, Linda Mann experienced chronic stomach problems. She underwent numerous medical tests, including a biopsy. Her pathologist concluded that there was no cancer. Her doctors diagnosed her with Crohn's Disease, a debilitating and painful—but not fatal—disorder. Linda's doctors treated her for Crohn's, but their efforts had no effect—she was in excruciating pain, often waking in the night in tears. Four years later, Linda's doctors scheduled an exploratory surgery. The surgery revealed Linda had advanced stomach cancer. The cancer had run rampant through her digestive tract, spreading into her colon, and ate through her intestinal wall in several places. At such a late stage, there was nothing the doctors could do to help her. In June 2000, Linda passed away. After Linda's death, it was discovered that Linda's pathologist should have easily discovered the cancer in 1996, when it was still curable. Linda's pathologist admitted that she spent less than 30 seconds reviewing Linda's biopsies because her company pressured her to review biopsies quickly to generate more revenue.

PENNSYLVANIA

Ellen Thurston

At the age of 50, Ellen Thurston's doctor noticed a solitary nodule on her left lung. During surgery to remove the nodule, the surgeon negligently cut a hole in Ellen's diaphragm. The surgeon sutured the hole, continued on with the surgery and never reported his mistake to the hospital or Ellen. Post operatively, Ellen's health deteriorated and her doctors could not figure out the cause because the surgeon had covered up his mistake. Soon, Ellen underwent another surgery. The new surgeons discovered the hole in Ellen's diaphragm and found that the sutures used to repair it were infected. The infection caused Ellen's stomach to herniate, or twist into the diaphragm hole, and cut off its blood supply. As a result, Ellen's stomach contents leaked into her abdomen and caused a massive infection. The doctors could not reconstruct her chest wall and had to remove some of her ribs to repair the leaks in her lung. Ellen spent 149 days in the hospital. Today, Ellen faces life threatening infections, recurring pneumonia, and hospitalizations. She still has an open hole in her back, leading to her chest cavity.

OREGON

Steve Brown

Steve Brown had a pituitary tumor that was pressing on his optic nerves and causing vision loss. Steve's doctor operated to remove the tumor. Following the operation, Steve's doctor informed him that 90 percent of the tumor was removed; however, the doctor only actually removed 10 percent of the tumor. A CAT scan revealed that the mass was still present, but Steve's doctor misread the scan. Soon, the tumor grew back to its original size. Steve's doctor performed another surgery but again barely removed any of the tumor. While recovering from surgery,

Steve complained that his vision continued to deteriorate; however, the nurse refused to contact the on-call neurosurgeon which caused Steve's vision loss to progress. By the time a neurosurgeon assessed Steve's condition and performed emergency surgery, he was permanently blind.

WISCONSIN

Shay Maurin

Shay Maurin was acting strange, so her mother, Yvette Maurin, took her to a local clinic. The clinic doctor suspected that Shay may have had diabetes, but did not administer any tests. The next evening Shay continued to act strangely, so Yvette took her to the ER. Yvette told the ER doctor that Shay may have diabetes. While at the ER, Shay exhibited clear signs and symptoms of diabetes; however, the ER doctor did not administer the standard finger stick test for diabetes. A blood glucose finger-stick would have cost around 58 cents, yet the ER doctor sent Yvette and Shay home. The following afternoon, Shay died of diabetic ketoacidosis, a condition which results when a diabetic is not treated with insulin. The body becomes severely dehydrated and an acid build-up occurs, leading to swelling of the brain and death.

THE REASONS MOST MALPRACTICE VICTIMS RECEIVE NOTHING

Although popular opinion would have you believe that the number of malpractice suits and awards is "skyrocketing," the truth of the matter is that the number of such suits has not increased since 1996. (7) Brian J. Ostrom et. al., Court Statistics Project, Examining the Work of State Courts, 2001, at p.31. Further, in most litigated cases, the plaintiff receives nothing.

There are a variety of reasons why patients do not recover any compensation for injuries suffered while receiving medical care. Most of these stem from general misconceptions about the nature of medical malpractice. It is important for potential malpractice plaintiffs to understand these issues.

1. *Patients do not realize they have been the victim of medical malpractice.* Although preventable medical error continues to be a major problem for our health-care system, in the vast majority of cases the fact that malpractice has occurred is hidden from the patient and the patient's family.
2. *An autopsy was not performed.* In a situation where the claim is that the malpractice caused a death, we must prove that the malpractice directly resulted in the patient's death. In many cases it is impossible to prove this without an autopsy.
3. *Even though the doctor committed malpractice, the disease or illness likely would have resulted in death anyway.* Sometimes cancer or other deadly illnesses may go undiagnosed for months or even years. A late diagnosis does not always mean that the doctor is responsible for the patient's death.

4. *The patient suffered no significant damages.* While every instance of medical negligence is important to the patient, the legal system is not set up to handle small medical malpractice cases. We decline many cases every year where it appears that the medical provider was careless but the resulting injury is not significant. For example, a pharmacist may incorrectly fill a prescription. That error may make you violently ill for a week. If you have a good recovery, however, you probably do not have a case to pursue. This is because the costs of pursuing the case will be greater than the expected recovery. Our system may not be perfect, but it does act as a filter to keep out all but the most serious cases of medical malpractice.

5. *The injury suffered was not necessarily caused by the physician's or hospital's mismanagement.* It is an unfortunate fact of life that medicine is not perfect. In spite of the best of care, complications can and do arise. A complication or bad result does not necessarily mean that there was negligence. These facts provide many standard defenses for medical providers.

6. *The statute of limitations has expired.* Each state has its own statute of limitations for filing of medical malpractice action. If the statute of limitations has expired, you cannot file a case. In Missouri and Kansas, there is a two-year statute of limitations for medical malpractice cases. There are certain exceptions to this rule and is important that you have an experienced attorney help determine when your statute of limitations expires.

7. *Jurors have been biased by the insurance industry.* The insurance industry has spent millions of dollars in an effort to suggest that there is a widespread problem with medical malpractice lawsuits. The insurance industry claims that excessive verdicts or causing malpractice insurers to raise their premiums, forcing physicians out of the medical profession. Jurors who hear these messages often award lower verdicts than they would have a decade ago. Unfortunately, malpractice victims sometimes receive less from the jury that is necessary to pay their medical bills for treating the injury caused by the malpractice.

8. *The plaintiff is unable to hire good, qualified experts.* You cannot win most medical malpractice cases without one or more very qualified medical experts. They can be hard to find. It is becoming increasingly difficult to find doctors who were willing to stand up and fight for what is right. It takes time and money to find best experts for your case. This is one area where the insurance companies have a tremendous advantage. If they have a case that is particularly bad for their doctor, they may show the case to many experts before they find one to support the defense. They can afford to hire more than many experts. Most patients cannot afford to have ten experts look at their case in order to determine which expert will work best for them.

HOW DO I FIND A QUALIFIED MEDICAL MALPRACTICE ATTORNEY?

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 medical malpractice 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 medical malpractice 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 a medical malpractice 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 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 and attorney has actually 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 an/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, 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.

5. Fifth, you should determine how your attorney will keep you informed about the progress of your case. In our practice, we will provide you with all 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.

6. Sixth, 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.

7. Seventh, 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@kcautoaccidents.com.*

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.

- Conduct an initial interview with the client;
- Interview any potential witnesses to events;
- Gather client's medical records and bills;
- Conduct preliminary medical research regarding the medical negligence issue at hand;
- Locate and contact potential medical expert witnesses;
- Refer matter for expert witness review;
- 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.²

² Our contract with you does not obligate us to participate in any appeal.

Beware of the ERISA "monster"

If 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 treat reimbursement out of any personal injury recovery. Your quote 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

It has we said at the beginning of this book, quote we are unique." Rather than run around trying to manage hundreds of cases at the time, we carefully select the few cases that we will accept at any one time.

² Our contract with you does not obligate us to participate in any appeal.

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 declined 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 mass 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 received, we have found that the only way to provide personal services to decline those cases that do not meet our strict criteria.

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 Concentrated 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.

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.

Free newsletters from Kansas City Accident Injury Attorneys

Want to know how to best to deal with insurance company denials? Want to find out specific steps you contain define the best lawyer for your case? Want to read the quote 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 eight times a year in a free newsletter sent to your home by Kansas City attorney Victor B. Finkelstein of Kansas City Accident Injury Attorneys

Mr. Finkelstein strongly believes 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 of 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.

There is no need to destroy this book. Just photocopy this form, fill it out and mail or fax it to us. Fax to 816-471-7199 or mail to Kansas City Accident Injury Attorneys, 1102 Grand, Suite 1901, Kansas City, MO 64106.

Please Add Me To Your Mailing List

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

If you would like to also receive our e-mail newsletter, published approximately twelve times a year, just give us your e-mail address. We do not share our mail/e-mail lists with anyone!

(e-mail)