



THE OHIO ACCIDENT BOOK

Don't Get Caught in Insurance Company Traps
2nd Edition

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Charles E. Boyk Law Offices, LLC

We have offices in downtown Toledo, West Toledo,
South Toledo, Findlay, Bowling Green, and Swanton
www.charlesboyk-law.com



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QUICK HITS

Seek treatment immediately – The best thing you can do after an accident is to seek medical treatment immediately and follow your doctor's orders.

Don't rush to settle your claim – Don't settle your claim before you complete your medical treatment. A few thousand dollars may sound good until you realize it doesn't come close to compensating you for your injuries.

Don't underestimate the insurance adjuster – Insurance adjusters have a huge advantage over you because they settle claims every day. You need a lawyer to help deal with them.

Don't provide a statement to the adjuster – Don't make any statements about your case until you consult with a lawyer.

Don't sign medical authorization forms –

Don't sign authorization forms that allow an insurance company access to your private medical records. Only sign forms completed by your lawyer.

Document everything –

Start a file for all police, medical, and insurance documents related to your case.

Honesty is the best policy –

Be honest about your injuries. Nothing will kill your claim faster than being caught in a lie.

Don't hide information from your lawyer –

Your lawyer needs to know the good, the bad, and the ugly about your case to properly represent you.

Don't exaggerate your injuries –

Exaggerating the extent of your injuries could come back to haunt you if the insurance

company films you participating in an activity you shouldn't be able to do.

Hire a personal injury lawyer – Insurance companies employ professionals who deal with personal injury cases every day. You need a professional looking out for your rights.

ACCIDENTS CAN BE DEVASTATING

Accidents happen every day. You're driving down the road, heading to the grocery store or to work, and another driver plows into you. A crash can start a chain of events ranging from minor inconveniences to a complete disruption of your physical and financial health. Accidents can cause devastating injuries that lead to months or years of pain and medical treatment. They also can create tremendous financial hardship if you are unable to work for an extended time.

Statistics show accidents are a common occurrence on Ohio's roads. From 2001 through 2005, there were 381,120 crashes annually, according to the Ohio Department of Public Safety. During that same period an average of 93,581 people were injured annually and 1,220 people were killed on Ohio roads. To crunch the

numbers even further, 360 people were injured every day in traffic accidents in 2005, according to the state.

Those who haven't been involved in a serious car accident often expect that an insurance company will take care of their bills and compensate them for the pain and suffering they've endured. But for many the nightmare is just beginning. The pain caused by the wreck becomes almost secondary to the unfair treatment the victim receives from insurance companies that have one objective – closing the file for as little money as possible without fair compensation for the injured.

Dealing with the consequences of an accident is a new and unfamiliar experience for most people. That's why we've written this book. It's intended to serve as a reference tool that can help you deal with insurance companies and the often inevitable and complicated litigation.

We think this book is necessary because you're at a natural disadvantage when you deal with insurance adjusters who handle claims for a living. They do it every day and all day. It's the way they feed their families and pay for their homes. In short, they're professionals and you're not. To use a baseball analogy, it would be like going to bat against a major-league pitcher. You might get lucky and foul off a pitch or two, but try hitting that big-league curve ball. You'd probably strike out.

The same concept applies to dealing with insurance companies. It has nothing to do with how smart or successful you are in other areas of your life. Insurance adjusters have the advantage because they settle claims for a living. We wrote this book to help you level the playing field. If you have any questions about an accident in which you, a family member, or a friend have been injured, please feel free to give us a call at 419-241-1395 or 800-637-8170. You can also visit our Web site at *www.charlesboyk-law.com*.

WE CAN HELP YOU

The authors of this book have nearly 50 years of combined legal experience. **Chuck Boyk** has been in private practice for 23 years and heads the Charles E. Boyk Law Offices, LLC. During his career, he has handled thousands of personal injury cases ranging from small whiplash injuries to wrongful death claims. He has conducted numerous seminars for other attorneys to help them understand the world of personal injury law. In addition to his personal injury work, Chuck has represented thousands of criminal defendants, handling anything from routine traffic offenses to murder cases.

Mike Bruno also has been practicing law for 23 years. Mike, who has been named an Ohio Super Lawyer, has a unique background that benefits our clients. As an assistant Lucas County prosecutor, he handled thousands of felony cases, including death penalty murder cases. As

an insurance defense attorney, he handled serious personal injury cases representing insurance companies. That experience has provided him with invaluable insight into how insurance companies will view our cases. Mike has handled more than 100 jury trials, is Board Certified by the National Board of Trial Advocacy, and is AV rated by Martindale Hubbell, the highest rating an attorney can receive.

Dale Emch focuses his practice on personal injury cases, but also handles criminal cases ranging from felonies to traffic offenses. He graduated *cum laude* from the University of Toledo College of Law, where he was an associate member and note and comment editor of Law Review. Dale is a member of the Toledo Bar Association, the Lucas County Bar Association, the Ohio Academy of Trial Lawyers, and the Association of Trial Lawyers of America. He serves on the Lucas County Public Defender Commission and the Media Relations Board for the Toledo Bar Association.

THIS BOOK DOES NOT OFFER LEGAL ADVICE

We're happy that you've taken time to read our book. You should note, however, that ordering or reading our book does not create an attorney-client relationship. We also aren't offering a legal opinion in these pages because every case is different based on the facts of the situation. If you want our legal opinion, please contact us at 800-637-8170 or 419-241-1395. We'll be happy to set up a free meeting with you.

TEN TIPS TO MAXIMIZE YOUR RECOVERY

If you've been injured in an accident, the initial steps you take can make a big difference to the outcome of your case. We've compiled ten tips to help you avoid insurance company traps and receive fair compensation for your injury.

i. Seek treatment immediately.

The best thing you can do for both your physical and financial health is to get the proper medical treatment for your injuries. This isn't a time to tough it out and hope that you'll miraculously heal. Returning to health should be your top priority. You need to go to your family physician or to the emergency room to make sure that you get the treatment you'll need to recover from the injuries you suffered in the accident.

Once you go to the doctor, follow his or her orders so you can make the best recovery

possible. If your doctor tells you to go to a physical therapist, do it. If you visit a chiropractor, complete the recommended treatment plan.

This makes sense not only for your physical health, but for your financial health as well. An insurance adjuster is going to base any settlement offer to you on the medical care you've received because it provides a way to measure your injuries and resulting pain. Getting treatment demonstrates to the insurance company that you're not faking your injury and that you're taking the process seriously. Compensation for the pain and suffering you've endured as a result of your accident will be based to some degree on the amount of your medical bills.

Once you've started treatment, see it through to the end. Don't stop the second you start to feel better if your doctor has recommended that you complete a certain amount of rehabilitation. If you stop early, you may not be fully healed.

Resuming treatment months after you've stopped sends a message to the insurance company that you may not have been hurt in the first place or that you're trying to take advantage of the process.

2. Don't rush to settle your claim quickly.

If you're reading this book because you were recently involved in an accident caused by another driver, you may already have received a call from an insurance adjuster trying to settle your claim. Typically, an adjuster will wave a few thousand dollars under your nose to settle the claim quickly. It sounds good until you realize you're hurt more seriously than you anticipated or your medical bills end up eating into that money.

If you're tempted to settle your case below its value just because you need money for your medical bills, hold off. If you hire an attorney, the attorney usually will be able to work out an arrangement with your health-care provider for

your provider to be paid out of the proceeds of your settlement. The doctor or chiropractor will continue to treat you without requiring payment after receiving what's called a "letter of protection" from your lawyer. This allows you to continue getting the treatment that you need, while ensuring the doctor is paid at the end of your case.

Settling your case quickly doesn't allow you to be fully compensated for your medical bills, pain and suffering, and lost wages. It only benefits the insurance company because it won't have to pay out the full value of your case.

3. Don't underestimate the insurance adjusters who contact you.

This tip goes back to what we discussed in the introduction. Insurance adjusters handle claims for a living. They're judged by their bosses by how they settle claims and how much money they save for the company. This doesn't make them bad people; they're just doing their jobs

and looking out for the best interests of their employers. It's up to you and your lawyer to look out for your interests.

It's no shock that insurance companies often own the tallest skyscrapers in a city. They have powerful lobbies throughout the country and, along with other business interests, have done their best to get legislation passed that makes it hard for accident victims to be fairly compensated. They've gotten rich by collecting as much money as possible from all of us while trying to avoid making fair settlements with people suffering from accidents they didn't cause.

So, when an adjuster representing the person who caused the accident gives you a call, keep in mind where their loyalties lie. They'll likely be extremely pleasant, but they have one goal: to settle your claim as cheaply as possible. They do this for a living, all day and every day. Because this is probably the first time you've been an accident victim, you are at an obvious

disadvantage. Be smart when you're dealing with them – or better yet, hire a lawyer who deals with insurance companies on a daily basis. After all, the insurance companies have professionals working for them, so you should too.

4. Don't provide a statement to the adjuster.

If an insurance adjuster contacts you, don't make any statements about the accident, your physical condition, and whether you're being treated by a doctor. The adjuster may be recording your conversation and certainly will be taking notes. You can settle any claims dealing with the damage to your vehicle, but any statements you make about your injuries could come back to haunt you. Simply thank the adjuster for calling, tell her that you don't want to make any statements, and that you don't want her to call back. Tell the adjuster you'll initiate a conversation when you're ready. You don't have to be rude, but you need to be firm. The adjuster can't make you talk.

It's a foreign concept to most people, but you have to view your injury case with the idea that it could go to trial. Most cases don't, but you don't want to hinder your negotiating strength by making a statement to an adjuster that can be misconstrued or twisted. The concern about making a statement is that you may not know the extent of your injuries right after an accident. It's not uncommon for people to feel worse in the weeks or months following the accident than they do in the immediate aftermath.

One way to avoid awkward conversations with an adjuster or making statements that could hurt your case is to contact a lawyer to represent you. Your lawyer will stop the adjuster from having any further contact with you.

5. Don't sign any medical authorization forms at the request of an insurance company.

Insurance companies often try to get accident victims to sign and return authorization forms

that allow them to obtain your medical records. The forms usually are drafted so the insurer gains access to all of your medical information, not just information relating to your accident. It allows an insurance company to go on a fishing expedition for any other medical problems that might explain the pain you're experiencing.

If your injuries are serious, you should consult an attorney to deal with these issues. Your attorney will ask you to sign medical authorization forms that will be used to obtain the information that's related to your accident. Only the information relevant to your accident or injury will be sent to the insurance company so your claim can be evaluated. This protects you from having personal information winding up in the wrong hands.

6. Start a file to document everything connected to your case.

Make sure you keep every bill, police report, and document connected to your claim. The insurance company has a right to see evidence of

medical bills for which you're seeking reimbursement. Keeping track of your bills also ensures that you won't settle your claim without making sure you've been compensated for all of your expenditures. This is true even if you have health insurance because you may have to repay your provider for any bills they've paid on your behalf if there's a settlement.

In addition to documenting your treatment, keep track of any wages you've lost because you've been unable to work. Don't assume you'll automatically get reimbursed for your lost wages. You have to get a note from your doctor if you miss work because of the injuries from the accident and you'll have to get documentation from your employer about your rate of pay and how much money you lost because you weren't able to work.

7. Honesty is the best policy.

Be honest when it comes to dealing with your injury claim. Be honest with the insurance

adjuster, be honest with your doctor, and be honest with your lawyer. Nothing will kill your claim faster than being caught in a lie. Your credibility will be crucial in resolving your case, particularly if you have to go to trial.

If you're not in pain, don't get unnecessary medical treatment to drive up your bills. That doesn't mean you shouldn't follow your doctor's orders, but don't exaggerate the extent of your injuries. The truth eventually will come out, and when it does your case might become worthless. If your case goes to trial, your credibility with the jury carries tremendous value. If jurors feel you're not being honest, they won't give you the fair compensation you deserve.

You also have to be straight with your lawyer, who won't handle your case if he thinks you're lying. The attorney needs to know what's really happening with your case in order to represent you fairly and aggressively.

8. Don't hide information from your lawyer.

This tip goes hand-in-hand with our advice about being honest. You'll be making a big mistake if you hide information that is embarrassing or that you think will hurt your claim. You may get away with it, but usually the truth comes out. And if it comes out at the wrong time in a deposition or at trial, your case may be damaged beyond repair. Your lawyer can only help you if she has the complete picture. If there's something awkward to be dealt with, she'll handle it. But don't put your lawyer in a bad situation by hiding something.

9. Don't exaggerate the impact of your injury.

You're entering a world you likely didn't know existed. As we've said earlier in this book, insurance companies prosper by paying accident victims as little as possible. In an effort to do that, they'll resort to what you may regard as underhanded behavior. They may hire a private investigator to spy on you, they may have someone engage you in conversation about your

injuries, or they may videotape you as you go about your day.

We know of one case – fortunately not one of ours – where an insurance company investigator placed a video camera in a gym bag to record a supposedly injured accident victim teaching an aerobics class. Needless to say, the attorney handling that case dumped it immediately – and should have. People like that aerobics instructor give insurance companies reason to be skeptical. The problem is they seem to be skeptical of everyone, even people with legitimate claims.

So, if you exaggerate the extent of your injuries by doing something like hobbling around on crutches when you can walk just fine, and then you're filmed running a marathon, don't be surprised when your case tanks. Don't play games when it comes to dealing with your injury case.

10. Hire an attorney who devotes his practice to personal injury cases.

Earlier, we wrote about insurance adjusters who negotiate settlements every day. They're good at it because it's their profession. That's why you'll need a lawyer to handle your case. Your lawyer not only will deal with the insurance adjuster, but he'll navigate you through the complex world of personal injury litigation.

Armed with knowledge of the law and the ploys of adjusters, a lawyer can help you obtain a fair settlement for your case. Numerous studies have shown that you're far more likely to end up with more money at the end of a case if you hire a lawyer rather than trying to settle the case on your own. By virtue of handling injury cases every day, lawyers develop a sense of how much a case is worth.

Furthermore, you're not likely to have experience with the types of arguments you're going to hear from insurance adjusters. Hiring a

lawyer lessens the amount of hassles you'll face and you'll almost certainly net more money, even after attorney fees and expenses are subtracted.

PERSONAL INJURY CASE STANDARDS

Not everyone who has been injured can win a personal injury case. The person who causes the injury has to be deemed negligent, or at fault, under the law. Someone is at fault when it is his responsibility to act or behave in a certain way, but fails to and causes some type of damage or injury. There's a lot of complexity built into that seemingly simple concept, but that's the rough idea.

A routine traffic accident is a good example. Motorists have a responsibility to drive in a way that doesn't hurt others. When a driver speeds, fails to yield, or rear-ends another driver and causes an injury, then that driver is negligent.

Filing a negligence claim doesn't mean that you're accusing the other driver of being a bad person, and it doesn't mean you're being greedy. It's simply a claim that the other person's

conduct has caused you some type of harm for which you deserve to be compensated. No one is going to go to jail as a result of your civil lawsuit. The civil system offers a way for you to be made whole for the damages you've suffered as the result of another's wrongful conduct.

The insurance industry, along with state and national chamber of commerce organizations, have done a great job of casting doubt on legitimately injured people and the lawyers who represent them. While there certainly are unethical lawyers and people who make fake claims, the vast majority of claimants and attorneys seek only fair compensation for the injury suffered. You shouldn't feel guilty for pursuing a legitimate claim for injuries caused by someone else.

When you seek a settlement from an insurance company, you're just trying to be made whole for the medical bills you've incurred and the pain you've endured. You have nothing to be ashamed of when you look out for your best interests.

YOUR LAWYER DOESN'T GET PAID UNLESS YOU DO

People are understandably nervous about hiring a lawyer. Fear that it will cost too much stops some from consulting an attorney, especially when expenses may be adding up as a result of a recent accident. Accident victims, however, don't pay their lawyer anything unless a settlement is reached or they win in a trial.

Most attorneys who represent accident victims take what's called a contingent fee, which means that the lawyer's fee depends on his success in resolving the case. If you win your case or get a settlement, the lawyer takes a fee. If you lose at trial or the insurance company won't settle, you don't get anything, but you typically won't owe the lawyer a fee. Usually, the lawyer takes one-third of the gross award or settlement. The arrangement works for both parties. The lawyer takes a risk that he'll never get paid if the case

bombs. The client gets to pursue his claim without having to come up with thousands of dollars in legal fees. Without this arrangement, some people never would be able to bring a claim because they couldn't afford it.

Trying cases can be expensive because court reporters have to be hired to take depositions that have to be transcribed, medical records have to be ordered, experts witnesses such as doctors have to be consulted, exhibits have to be compiled, and court costs have to be paid. The attorney usually will cover those expenses because most people couldn't come up with that much money. If the case settles or the client wins at trial, the lawyer is reimbursed for the expenses he incurred in handling the case. Again, this arrangement benefits the client. Our firm handled one case where the expenses alone were in the neighborhood of \$100,000. If we hadn't paid for those expenses, our client never would have been able to pursue his claim even though he had an excellent case.

When you meet with a lawyer, you will have to sign an agreement that spells out how the attorney will be compensated and how the expenses will be paid. Make sure that the contingency fee arrangement – typically 33 1/3 percent of the gross settlement or award – is clearly spelled out in the contract. If you don't feel comfortable with the contract, don't sign it. You're in control of the situation. If you have questions, make sure the lawyer answers before you sign the document. You can walk away after the case starts, but the lawyer will be entitled to get paid for the time and expenses he's incurred out of whatever settlement another lawyer obtains for you.

When the case is resolved, you will get a check that represents the award or settlement, minus the attorney's fee and expenses. In some situations, the attorney could be entitled under the contract to more money than the client ultimately receives after expenses and medical bills are paid off, but that shouldn't happen. The

attorneys in our office cut their fees so the client always ends up with more money.

ATTORNEYS KNOW HOW TO NAVIGATE THE LEGAL PROCESS

In all but the most straightforward of traffic accidents, these cases can become very complicated even for attorneys who handle these issues every day. Dealing with insurance adjusters, health-care insurers, doctors, chiropractors, and attorneys representing the insurance company can make resolving a personal injury claim a long, frustrating journey. Hiring a lawyer to help you obtain fair compensation makes sense unless you've been involved in a very minor accident.

If you hire a lawyer, he has a few options when trying to resolve your case. Some lawyers file a lawsuit immediately, which has the benefit of putting you quickly on a trial track. The other path the attorney might take is negotiating with the insurance adjuster to resolve the case without having to file a lawsuit. Most attorneys,

including those in our office, prefer the second approach.

Lawsuits are time-consuming, expensive, and unpredictable. The benefit of settling a claim with the adjuster is that the client gets compensated sooner and has a certain outcome. We only file suits quickly if the adjuster makes an unfair offer that we know isn't going to get any better or if the statute of limitations is about to expire. For a routine traffic accident case, the injured person has two years after the accident to file a lawsuit. The statute of limitations for a minor's traffic-accident case is two years after the minor turns 18.

Even with our approach, you shouldn't expect a quick settlement. As we stated earlier, we think it's best for the client to follow a doctor's treatment plan – even if it takes more than a year – rather than settling the case prematurely. This benefits the client's health and her case. Ultimately, your settlement or verdict will be

based to some degree on the cost and length of your treatment.

Sometimes going to trial becomes the only option. When you're looking for a lawyer, make sure you hire someone who is willing to try cases if necessary. It can take a long time to get to trial, but it may offer your best chance of getting fair compensation for your injury. If you have to go to trial, be prepared for a long wait because judges have to juggle numerous criminal and civil cases. It's not unusual for a trial date to be set anywhere from six months to a year after the complaint is filed.

CONCLUSION

We hope this book serves as a helpful reference tool for understanding personal injury cases. Though the process can be long and complicated, an attorney can guide you through this journey. When picking an attorney for your case, select someone who handles a lot of personal injury cases. Personal injury lawyers deal with the legal issues specific to this field of law on a daily basis.

If you think we can help you with your case, please call us at 419-241-1395 or 800-637-8170. A receptionist will gather some information and connect you with a lawyer. Calls that come into our office after hours are forwarded to a lawyer. To learn more about our firm, visit our Web site at *www.charlesboyk-law.com*.

We'll schedule a free consultation with you and give you our professional opinion about whether

or not we can help you. You can also order one of Chuck Boyk's special reports for people who have been bitten by a dog, injured on the job, or involved in a truck accident. We have six offices in northwest Ohio where we can meet with you to discuss your situation. We'll work hard to get the best result for your case.

Chuck Boyk has written FREE Special Reports on truck accidents, workplace injuries, and dog bites. To order, please call 800-479-8203 and dial one of the following extensions. Dial 1130 for the dog bite Special report; dial 1129 for the workplace injuries Special Report; and dial 1128 for the truck accident Special Report.



Charles Boyk, Michael Bruno, Dale Emch

Thousands of accidents resulting in hundreds of injuries occur every day on Ohio's roadways. The consequences can be devastating for those who are injured. The health problems present the most obvious concern, but financial pain can linger long after the injuries heal.

That's why the attorneys at the Charles E. Boyk Law Offices, LLC, have written this book. Insurance companies have one goal when dealing with an accident: settling the claim for as little money as possible regardless of whether the victim is fairly compensated. We hope this book serves as a reference guide for people who have been injured as the result of someone else's negligence.

If you read this book and would like our help, please call attorneys Charles E. Boyk, Michael A. Bruno, or Dale R. Emch at 419-241-1395 or 800-637-8170. We're based in downtown Toledo, but we have five other offices in northwest Ohio where we can meet with you – for free – to discuss your case.



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