

The Boyk Bulletin

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If you are hurt, seek proper treatment

By Charles E. Boyk

It really bothers me when I see clients destroy their own cases, often before they walk through my door. In my 24 years as a personal injury attorney, I've discovered that clients diminish the value of their cases when they claim serious injuries but fail to seek consistent treatment.

I am a strong believer that actions speak louder than words. When people are legitimately hurt, they seek medical treatment in a consistent and timely manner. A client has a duty to ask tough questions and to be a proactive client to his attorney and patient to his doctor.

Over the years, I have seen on a regular basis the

insurance company make the following arguments against some of my clients:

1. The client missed 75 percent of his physical therapy visits. If the injury were really serious, the client would have followed the doctor's orders.

2. There is a 60-day gap from the emergency room visit until the first doctor's visit. The injury you are claiming must be the result of some other trauma that happened in the 60-day period.

3. Your client treated for six months on a regular basis and then returned to work. There is a 3-month gap of no treatment and then the client gets surgery.



Attorney Chuck Boyk

Some work-related issue must be the cause of the surgery. We will only pay for the six months of treatment.

Consistent treatment and documentation are the keys to proving your case. Act as a responsible person under the circumstances. Actions speak louder to the insurance company than excuses.

We have moved our Downtown office!

We are now located in the

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405 Madison Ave.
Suite 1200
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On the corner of
Madison and St. Clair



Left to right: Chuck Boyk, Mike Bruno, Dale Emch



Don't give a recorded statement to the insurance adjuster

People not represented by a lawyer can make a major mistake with their claim when they give recorded statements to an insurance company.

The goal of the insurance adjuster is to lock the injured person into a set of facts that can be used to discredit the victim. This helps the insurance company pay less money.

Chuck Boyk has listened to numerous recorded statements after he's been retained. Here are four examples of problems that are caused by recorded statements:

1. The client tells the adjuster he was not injured in the accident. Unfortunately, the client later began treating for serious injuries that developed a few days after the accident. The statement is often used to discredit the injury, the cause of the injury, and the creditability of the client.

2. "I'm not sure if my injury is from the accident or a prior problem."

• • •

"The recorded statement is often used to discredit the creditability of the client."

- Attorney Chuck Boyk

• • •

That's nice to know, however, if you are not sure then the insurance com-

pany will be happy to keep their money and let you foot the bill for treatment. Let your doctor make that determination.

3. "I was not wearing my seatbelt or glasses." The accident may be partially your fault for not being able to see. Your claim may be damaged by your failure to use a legally required safety device.

4. "I knew the driver of my car was drunk, but I rode with him anyway." Assumption of the risk is a defense under Ohio law. You may be determined to be more than 50 percent at fault for assuming the risk.

We will sometimes give a recorded statement later in the case. That is done for strategic reasons only after the client is fully prepared for the questions. The lesson is to not voluntarily give the insurance company ammunition to harm your case.

All-terrain vehicles can cause rollover accidents

All terrain vehicles can be a lot of fun, but some cause injuries or death when they roll over.

One model in particular, the Yamaha Rhino ATV, has been under scrutiny for easily tipping and rolling over even during low-speed turns, due to its high center of gravity, fast acceleration, and small turning radius. Since the turns are made when the ATV is not going very fast, it is almost impossible for a driver to realize that the vehicle is going to tip.

When the ATV rolls over, a person's legs can come out of the sides of the Yamaha Rhino then get



Yamaha Rhino

crushed by the roll bar, resulting in serious leg injuries. Sometimes the resulting injuries are so serious the victim must undergo numerous surgeries or even amputation.

In 2000, 547 people died in ATV-

related accidents, according to Consumer Reports.

Earlier this summer, a 9-year-old Texan boy was killed after a Yamaha Rhino he was riding in rolled over, pinning the boy under the ATV and causing severe trauma to his head. Even though he was wearing a seatbelt, the lack of doors on the ATV contributed to his ejection from the vehicle, according to KLTN Channel 7 News in Tyler, Texas.

Yamaha Rhino all-terrain vehicles are especially dangerous to children under the age of 16. Young kids are not used to driving a motor vehicle, and may be unfamiliar with steering wheels, gas pedals, brakes, and the way all-terrain vehicles handle.

A Note to Our Readers Charles E. Boyk Law Offices, LLC has created this newsletter for our clients, friends and colleagues to provide general and practical information. It is not intended for legal advice and should not be viewed as a solicitation. We hope you find this publication to be a helpful and valuable addition to your mail, however, if at any time you wish to be removed from our mailing list, please contact Anneke at 1-800-637-8170 or via email at boykadvertising@gmail.com.

Do not sign a blank medical authorization

We are often hired to represent a client several months after the accident. The client has already signed a blank medical authorization for the insurance company to obtain medical records. Medical and personal issues that an individual would not disclose to anyone but one's doctor are open for scrutiny.

After we're retained, our office sends the insurance company a letter canceling the medical authorization and requesting it sends our firm all records obtained from the authorization. Over the years, we've encountered the following circumstances:

1. The insurance company has obtained highly personal records unrelated to the accident. Subject matter such as long ago miscarriages, abortions, suicide

attempts, marital problems, etc. is now in the hands of the insurance company.

2. The client has no control over what happens to this information. Is this information left in the auto accident file or put in a national database of accident claimants? You simply do not know.

3. This highly personal information is used to discredit the injured person.

Our policy is to obtain all relevant current and prior medical records. If some of the information is deemed not relevant and highly personal, we discuss these issues confidentially with our clients.

We will only sign authorizations to the other side if we have first reviewed the records ourselves and discussed the mat-

ter with our client. We will attempt to obtain a court order to exclude disclosure of medical records not relevant to the accident or those that are highly personal.

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Ingredients:

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- 1 teaspoon vanilla • 3 cups powdered sugar

1. Pour cereal into large mixing bowl, set aside.
2. In 1-quart microwavable bowl, stir together chocolate chips, peanut butter and butter.
3. Microwave on HIGH one minute. Remove and stir. Microwave for 30 more seconds or until smooth. Stir in vanilla.
4. Pour mixture over rice cereal and stir until evenly coated. Place mixture into 2-quart resealable food-storage plastic bag.
5. Add powdered sugar and shake until evenly coated. Spread on waxed paper to cool.
6. Store refrigerated in airtight container.

Add colored M&Ms to make Muddy Mix more FESTIVE!

Tell the truth to your attorney

Not being truthful to your attorney is one of the worst things you can do as a client. The attorney's job is to help you solve your problem. Obtaining all relevant information, both good and bad, is critical to do that job.

Attorney-client privilege allows the most sensitive discussion with the attorney to remain confidential. If a client does not feel comfortable disclosing sensitive information, he should find another attorney.

Over the years, we have seen situations where the client not telling the truth to the attorney has resulted in the client destroying his or her case. Here are examples:

1. The client testifies to no prior low-back treatment or complaint. Prior medical records disclose low-back treatment with several medical providers. However, the treatment was over 10 years ago. The client could have easily explained this away as 10

years of a pain-free low back just by telling the truth.

2. The client testifies he has no prior felony criminal record. There was a felony conviction almost 10 years ago. If the attorney knew of this conviction, a motion could have been filed in court to exclude discussion of the conviction. Instead, the jury heard about the conviction and the client's credibility is damaged.

3. The client claims large amounts of lost wages. The client fails to tell his attorney he does not believe in filing tax returns. During a deposition, the client is forced to admit that he hasn't filed a tax return in 10 years. Lying to the federal government is a criminal offense and paints the client as a liar in all matters.

Telling your attorney the truth is in your self-interest to achieve the best possible result. Help your attorney use his or her skills to help you.

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Holiday manicures, pedicures bring risk of staph infections

As women head to the salon to get their finger and toe nails painted for the holidays, they should be aware of the risk of staph infections.

Contracted through unclean tools or contaminated jet baths in nail salons, staphylococcus bacteria, commonly known as staph, can live on the skin or in the nose without causing any complications until the bacteria cause an infection. When these bacteria are transferred to the hands or feet through unsanitary practices in the salons and cause an infection, the results can be devastating.

Swelling of the hands or feet, painful wounds, and permanent scarring can occur in an untreated or misdiagnosed staph infection. A

mother of three recently died after a heart attack that was triggered by a staph infection believed to be contracted at a nail salon, according to CNN.com.

Don't be afraid to ask nail salon staff about their cleaning procedures. Make sure that all foot and hand baths are scrubbed with state-approved disinfectant in hot water after each use. Bringing along your own tools such as nail files and nail clippers can also help reduce the risk of staph infections or other medical problems.



Cases of Interest

our office is handling

Motorcyclist killed when car makes illegal left turn in front of him at night.

2-year-old sustains a serious scar on her forehead after being bit by a pit bull.

17-year-old girl suffers severe shoulder injury when industrial lawn mower drives onto road and hits car she is a passenger in.

Head-on collision leaves passenger with severe head injuries, broken elbow and thumb.

Woman bound to wheelchair struck by SUV requiring back surgery and extensive physical therapy.

Man fractures ankle requiring surgical placement of plate and screws after car jack spring breaks while changing a tire.