

# Small **BIG** SMILES *Injuries*

A Parent's Guide To Dealing With Small Smiles Abuse



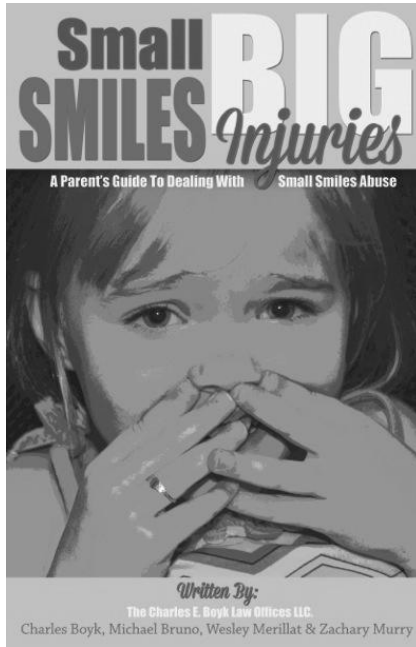
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# Small Smiles, Big Injuries

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## **Small Smiles, Big Injuries** *A Parent's Guide to Dealing with Small Smiles Abuse*

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## Small Smiles, Big Injuries

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Kevin Davis was in his early 20s when he took his two boys to the Small Smiles dental center in Toledo, Ohio. Even though Kevin, Jr. was only three years old and his baby brother, Zaire only 18 months, Kevin believed that it was smart to begin their oral health at a young age.

He reluctantly agreed to allow his sons to be taken in the back, after the Small Smiles staff informed him that he was not allowed to go past the waiting room.

When the boys emerged approximately four hours later, sweating and crying, their mouths swollen, their dad believed the dentist when he said that they were fine and assumed that they were upset because they didn't like going to the dentist. Kevin Jr. had multiple cavities filled and little Zaire - whose full set of teeth hadn't even grown in at that point - came out with caps on his four front teeth.

It wasn't until seven years later that he learned through information provided from our office that Small Smiles was mistreated children. Kevin asked his oldest son if he had been strapped down during his procedure.

Kevin, Jr. said, "Yes."

His dad was shocked. "I just can't believe it," Kevin said. "If they strapped Kevin Jr. down, they must

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have strapped down Zaire, too, since he wasn't even two yet."

In another incident, 5-year-old Brandon went to Small Smiles to have his teeth cleaned, but certainly he didn't expect to have his arms and legs strapped down to the chair and receive 16 painful root canals and have 16 silver caps put on his teeth.

His mom was shocked when two hours later he finally came out of the room that she was not allowed to enter.

"His whole shirt was full of sweat, he had blood dripping from his mouth and all I could see was silver shining through," Christie, Brandon's mom, said. "He was freaking out."

Six-year-old Morgan had to undergo five root canals and five fillings, topped with five crowns, all in one sitting. When she kept crying for her mom, they turned the radio "really loud" so that no one could hear her crying.

Morgan's mom, Sandra, had no idea what was going on, as she was not allowed past the front desk to go back with her daughter.

"They said, 'Oh no, you can't go back there, you can't go back there,'" Sandra said.

Brandon and Morgan's stories are not the only ones.

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Tens of thousands of children across the country have entered Small Smiles dental clinics with perfectly healthy teeth and left with mouths full of fillings and caps, after having had their teeth drilled and root canals performed - sometimes even without pain medication.

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## **Drilling for Dollars**

Why did Small Smiles dentists do this? We believe the reason was so that they could steal money from the government and make a larger profit off of the kids.

Small Smiles clinics were one of the few dental facilities that catered to children on Medicaid. Many parents had no choice but to take their children to Small Smiles, since many area dentists only accepted private dental insurance.

With nearly 70 clinics in the United States open at one point, Small Smiles' goal was to make as much money as possible, as quickly as possible. This meant strapping the kids down in order to work on them faster and performing treatments that were unneeded and unnecessary, before sending the bill off to Medicaid.

Some Small Smiles dental centers even had quotas and "production goals" for the dentists to meet. If the dentists performed work on a certain number of kids within a certain period of time, they would receive a monetary bonus. These bonus opportunities made dentists want to work harder and faster on the kids, even when a child didn't need certain treatments performed at all.



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## **Children suffer to make Small Smiles richer**

As many know, it is very uncommon for small children to have an excessive number of cavities or the need for root canals.

However, some of these unnecessary treatments performed on Small Smiles patients included:

- Filling cavities that never existed
- Performing root canals on healthy teeth
- Shaving down baby teeth in order to add silver caps, even on the front teeth
- Attaching silver crowns to baby teeth, making it difficult for the adult teeth to grow through

During the treatments, many kids were strapped down with a device called a “papoose.” Also called “stabilizing,” the papoose boards would prevent children from being able to move their arms or their legs. Many children were so frightened that they urinated in their pants or vomited during the procedures.

Since many of the Small Smiles clinics had rules posted forbidding parents to go past the waiting room, many moms and dads had no idea what happening to their kids, until it was too late.

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But when some parents furiously spoke against Small Smiles about the way their kids were treated, they were either ignored or the dentists would say things like:

- “These treatments needed to be done.”
- “This wouldn’t happen if you brushed your child’s teeth.”
- “If you don’t agree or if you don’t bring your child back, we will be forced to call Child Services.”
- “Your son’s teeth are bad because you feed him too much candy and soda.”
- “It’s normal for kids to be scared of going to the dentist.”
- “Using a papoose is a common practice and totally acceptable.”

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## **This Has To Stop**

Many of the dental hygienists and other assistants working at the Small Smiles clinics knew that what was being done to the children was wrong. Imagine that your job is to hold down a child so that he can be tied to the chair to have his teeth drilled with no pain medication and without Mom there to hold his hand. If you had your own children at home, you would probably feel the urge to stand up and speak out against the horrible treatment.

Some of the assistants did speak out. And then they were fired.

It was many of those fired assistants who went to the local authorities and to the media to tell them what was really going on in the back rooms of the Small Smiles dental clinics.

Once the FBI caught wind of the reports, they decided to launch their own investigation.

The FBI investigation took three years, but they eventually determined that Small Smiles was guilty of performing unnecessary treatment on thousands of children in order to defraud the government by billing Medicaid.

In January 2010, the United States Department of Justice ordered Small Smiles' parent company, FORBA Holdings LLC, to pay back the \$24 million they took from Medicaid. The employees who

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“blew the whistle” and reported Small Smiles received a portion of that money and took home \$2 million each as a reward.

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## What About the Children?

The government took action to get back the money that Small Smiles stole from Medicaid. But what about the unfair treatment and traumatic experiences that the Small Smiles patients were forced to go through?

Children who received horrific treatment as Small Smiles patients may be entitled to bring claims against the Small Smiles dental centers by filing a lawsuit.

Families across the country have filed to claims in order to receive money to compensate the kids for things like:

- **The cost of additional dental care.** Many children have been told by other dentists that they now need surgery or other procedures to fix the problems caused by Small Smiles.
- **The cost of psychotherapy.** Children who suffered serious injuries at the hands of adults they should have been able to trust – like dentists – often end up needing rigorous therapy sessions to cure them of their fear and anxiety. This is especially true for those children whose fear was so bad during the treatments that they urinated or vomited, or for kids who have reoccurring nightmares about dentists.

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- **Pain and suffering.** Memories of the horrific events can stay with a child long after the physical pain of a root canal goes away, which is why a victim should be compensated for that distress.

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### **How do I know if my child is eligible to file a lawsuit against Small Smiles?**

Sometimes it can be hard for a parent to figure out whether or not their child is entitled to file a civil lawsuit against Small Smiles, especially if they don't know exactly what went on behind closed doors. We have had many parents ask:

- How do I know if I can file a lawsuit if the dentist never told me what was done to my child?
- What if the dentist lied on the medical records?
- What if I can't prove that my child was strapped down?
- What if my child has never gone to another dentist since the Small Smiles incident?

If you are asking the same questions, rest assured that it is OK. You still may be able to file.

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### **How much money is available for injured Small Smiles patients?**

At the time of this publication, Small Smiles' parent company, FORBA Holdings, LLC, had filed for bankruptcy protection shortly after the U.S. Department of Justice's order to pay back \$24 million.

The Counsel for the Official Committee of Unsecured Creditors is working to argue that Small Smiles is required to utilize their malpractice insurance to reimburse the injured kids.

It is impossible to determine exactly how much each settlement will be, but we work to always obtain the maximum settlement amount available.

Attorney Wes Merillat was federally appointed to this Committee, so he is very familiar with the litigation surrounding the Small Smiles cases. His role on the Creditor's Committee gives him inside knowledge of how to best help parents of Small Smiles victims, since he has spent the past three years working the cases.



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## What do I need to do now?

There are very important steps that parents of Small Smiles victims must take in order to make sure that their lawsuit is filed properly and on time.

The first step is to contact a child injury attorney who is familiar with the Small Smiles situation. From there, the attorney can do the following for you:

- **Gather all the necessary background information on your situation.** This includes finding out when your child went to Small Smiles, what you think happened to him or her while there and how they are doing now.
- **Order your child's medical records from Small Smiles.** Some Small Smiles clinics will not provide parents with their child's medical records and some dental centers are no longer open. It is best not to ask for the records yourself. Our lawyers will be able to get these records for you and it is best to let them handle it. There are very specific documents that we will need to prove your case and Small Smiles may not give parents their child's complete file.
- **Tell your child's story.** We can work with you and your child to find out how they feel about what happened and how the Small Smiles visits will affect their future trips to the dentist and their mental health later on in life.

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- **File the lawsuit on your behalf.** We will file all necessary paperwork against Small Smiles for you and make sure to meet any deadlines associated with the claim.

- **Negotiate a settlement for you.** There is a chance that Small Smiles will settle the cases out of court, which means that your child may receive a lump sum of money without a judge's ruling. We can make sure that the settlement is fair and that it is enough compensation for the injuries.

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## **How do I know which attorney to hire?**

That is where we come in. The Charles E. Boyk Law Offices, LLC has extensive experience helping injured children and their families obtain the compensation they deserve.

**Chuck Boyk** has been in private practice for 29 years and heads the Charles E. Boyk Law Offices, LLC. During his career, he has handled thousands of injury cases to completion. Many of his cases have involved the injury or death of a child, which has given him a special appreciation for how difficult these situations are for parents.

Chuck 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 everything from routine traffic offenses to murder cases.

**Mike Bruno** also has been practicing law for 29 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

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by the National Board of Trial Advocacy, and is AV rated by Martindale Hubbell, the highest rating an attorney can receive.

**Wes Merillat** focuses his practice of law on complex litigation involving class actions and Multi-District Litigation in both Federal and state courts, primarily in the areas of pediatric litigation, pharmaceutical and product liability, ERISA, antitrust and general commercial disputes. Wes has extensive experience fighting for the rights of injured children and young adults, as he has handled nearly 1,000 Small Smiles injury cases.

**Zachary Murry** has represented individuals and corporate clients in numerous litigation and arbitration proceedings. He has worked on behalf of victims of defective medical devices and dangerous pharmaceutical drug products in both state and federal Multi-District Litigation proceedings, including the DePuy ASRP and Transvaginal Mesh products liability litigations. Zach's expertise is in the Yasmin/Yaz birth control litigation, where he was responsible for the management of nearly 500 cases.

### **THIS BOOK DOES NOT OFFER LEGAL ADVICE**

We're happy that you've taken time to read our report. You should note, however, that ordering or reading our report does not create an attorney-client relationship. We also aren't offering a legal opinion

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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 888-888-2110 or 419-241-1395. We'll be happy to set up a free meeting with you.

### **How much does it cost to hire a lawyer?**

Our firm works on a contingency fee basis. This means that child injury victims and their parents don't pay their lawyer anything unless a settlement is reached or they win in a trial.

There will never be any out-of-pocket costs. If and when the case settles, the attorney fee and case expenses will come out of the money awarded.

It is also our experience that families that hire an attorney still get more money in their pockets at the end of the case, even after the attorney fees are paid, than if they tried to handle the case on their own.

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## What else can I do to help my case?

Hiring an experienced child injury lawyer to help you is the number one step you can take to help your child.

And while your attorney will be able to do nearly everything for you, there are ten important things that parents can do to help move along their child's case.

**1. Be honest.** Don't exaggerate or state that your child had certain dental treatments that you know he or she didn't have. Dishonesty could hurt your claim in the long run and make you seem like you are not trustworthy.

**2. Don't be afraid to admit that you just don't know.** We understand that many parents were not allowed in the back with their child during their dental treatment, so they may be unaware of the treatment they received. If you do not know the answer to any of our questions, just tell us.

**3. Don't take out your anger on or retaliate against the people at Small Smiles.** We understand that what happened to your child is devastating, unfair and horrific and your first instinct may be to pick up the phone or go to the clinic and give them a piece of your mind. Not only will this not solve anything, but it could hurt your child's claim later on.

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**4. Update your contact information frequently.** It is absolutely imperative that we are able to get a hold of you at any time, so please let us know any time there is a change to your phone number, email address or mailing address. It is also a good idea to give us the name and number of two or three people you trust so that we can reach you in the event that your number is unavailable.

**5. Return paperwork immediately.** If we send you a document to sign, the best way to help speed along your case is to return it right away. We are here to help you, so we would be happy to send you a postage-paid envelope you can just drop in any mailbox or, if you are local, pick up the paperwork from you. We also offer the option of signing your paperwork electronically, right from your Smartphone or computer. You may also make an appointment to visit any of our six northwest Ohio office locations.

**6. Ask questions.** If there is something that you do not fully understand, we will be happy to answer any questions that you may have - just ask!

**7. Document everything.** Make sure to save any and all paperwork having to do with Small Smiles and keep it in one place. This includes any bills you may receive, any dental insurance statements, photographs of your child's dental injuries or written descriptions of what your child went through.

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**8. Don't speak with anyone from the insurance company or Small Smiles without first speaking with an attorney.** That means do not answer any of their questions about what happened to your child. Politely tell the person who calls that they can direct all future phone calls to your lawyer and simply hang up. Also make sure to ignore their letters and give them to your attorney.

**9. Do not accept any settlement offers from Small Smiles.** We believe that it is unlikely that Small Smiles or an insurance company representing Small Smiles would call and offer you money to fix what happened to your child. But if someone does offer you a settlement, do not accept it without first speaking with a child injury lawyer.

**10. Hire an attorney whose expertise involves helping injured children.** It is very difficult to handle a claim on your own and it's important that you do not miss important deadlines, which is why you need a lawyer fighting for your rights and the rights of your child.



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## Frequently Asked Questions

Learning that your child may have been injured by the Small Smiles dentists and staff can be very overwhelming. We understand that you may still have many questions and we encourage you to contact our office toll-free at 888-888-2110 so that a lawyer can provide you with answers.

Here are just a few of the most common Small Smiles questions our office receives on a daily basis:

1. My child went to Small Smiles years ago, but is now 18 years old. Can you still help me?

At this time, our firm is only taking cases involving children currently under the age of 15 years old.

2. I do not have reliable transportation. Will I need to come to your office all of the time?

No. In fact, it may not be necessary for you to come to our office at all. We can do everything by mail or even have you electronically sign your paperwork right from your Smartphone or computer.

3. I am a single parent. Do I need to have my child's other biological parent also sign the paperwork or is my signature enough?

In order to file your child's claim against Small Smiles, we only need the signature of the child's legal parent or guardian.

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4. The children's dental center my child went to was not called Small Smiles, but he still was strapped down. Do you take cases from other dental centers? Possibly. Small Smiles clinics operate under multiple names, including:

Children's Dental Clinic

Indian Springs Dental Clinic

Oklahoma Smiles

Small Smiles Dentistry

Texas Smiles

Wild Smiles

It is best for you to call our office so that we can determine if your child's dental center was ever affiliated with Small Smiles.

5. How long will the process take and when will my child receive his money?

How fast we can get your child a settlement depends on many things, including:

- How quickly we receive the signed paperwork back from the child's parent or guardian

- How quickly Small Smiles corporate offices take to send over your child's dental records

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- How quickly the bankruptcy and insurance coverage issue is resolved
- How quickly the Small Smiles representatives respond to our demand for settlement

Since there are thousands of other children also injured, it is not uncommon for the process to take anywhere from two to five years before a settlement is reached.

6. Will I have to go to court to testify?

Probably not. It is highly unlikely that you or your child will ever have to appear in court, since our attorneys work hard to reach a settlement without having the case go to trial.

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### **Let Us Know If We Can Help You**

If you think we can help you with your family's Small Smiles case, please call us at 419-241-1395 or 888-888-2110. An assistant knowledgeable in the Small Smiles litigation will gather some information and connect you with a lawyer. To learn more about our firm, visit our website at **[www.charlesboyk-law.com](http://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 your family. You can also order one of the other books we've written about car accident cases, dog bites, workplace injuries, or wrongful death claims. 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 child's case.