



The **Ohio** **MOTORCYCLE** **ACCIDENT BOOK**

**The Ultimate Guide to
Motorcycle Accidents in Ohio.**

By Charles E. Boyk, Michael A. Bruno, and Dale R. Emch
Charles E. Boyk Law Offices, LLC.
www.charlesboyk-law.com



The Ohio Motorcycle Accident Book

THE ULTIMATE GUIDE TO
MOTORCYCLE ACCIDENT INJURY
CASES IN OHIO

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We also have offices in West Toledo, South Toledo,
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INTRODUCTION

Anyone who has ever ridden a motorcycle knows the exhilaration and freedom that comes from cruising down a wide-open country road on a warm, sunny day.

And, anyone who has ever ridden a motorcycle knows the uneasy feeling that comes from being boxed in on a busy highway with a semi-truck on either side of you.

Those contrasting images represent some of the great and not so great experiences you can have on a bike. As wonderful as it can be, it's undeniably dangerous to ride, usually because the drivers of cars and trucks don't see you or are simply careless.

That's why we wrote this book. Motorcyclists are vulnerable out on the road and, unfortunately, accidents do happen. After an accident, the injured rider needs solid, practical advice about how to deal with insurance companies, medical providers, and the courts. Trying to navigate those unfamiliar roads can make an already difficult and painful time even more confusing and frustrating.

Those who haven't been involved in a serious motorcycle or 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.

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. It has nothing to do with how smart or successful you are in other areas of your life.

We hope our book serves as a guide for people who are struggling with injuries from a motorcycle accident or for the families who have lost a loved one as a result of someone else's negligence. It focuses primarily on how to handle motorcycle injury accident claims, but we've also included information about motorcycle laws in Ohio as well as safe-riding tips.

We hope you've picked up this book simply for educational purposes and not because you or someone you love has been in an accident.

If you have been injured while riding your motorcycle and you have some questions about your rights, please feel free to give us a call at 419-241-1395 or 800-637-8170. After normal business hours, phone calls are forwarded to an attorney. We have offices in downtown Toledo, West Toledo, South Toledo, Bowling Green, Findlay, and Swanton where we can meet you to talk about your case. You can also visit our blog site dedicated to motorcycle injury discussions at www.ohiomotorcycleaccidentblog.com or visit our main Web site at www.charlesboyk-law.com.

CHAPTER 1 Who We Are

Our office has been representing people who have been injured in motorcycle and car accidents for more than 26 years. We've also represented countless families who have suffered the loss of a loved one. We take a team approach to the cases we handle for families.

While some of the authors of this book have owned and ridden motorcycles, that shouldn't enter into your considerations when you're looking for a lawyer. If you need a brain surgery, do you really care if your doctor rides? When you look for an accountant to do your taxes, is it important whether he rode a bike to work? Should it be any different when you have to talk to an attorney about an injury claim? Your answer to all of those questions is probably no. If you feel you must have an attorney who is a motorcycle rider and enthusiast, then we may be the wrong firm for you. If you want a knowledgeable, experienced, and committed lawyer, then you should talk to us.

When you consult a lawyer for an accident claim, you want someone who has a lot of experience handling motorcycle and automobile injury cases, someone who will listen to you, and someone who will solve your legal problems. Their skills on a bike are not nearly as important their skills in the courtroom. We believe that our job is to:

1. Provide clients with all their legal options along with

our analysis about how the case should be approached.

2. Develop strategies to maximize the recovery for injured riders or grieving family members who may find themselves struggling financially.

3. Take charge of the situation and work with our clients to solve problems as quickly and easily as possible.

Over the years we have represented thousands of clients in injury and wrongful death cases arising from among the following situations:

Motorcycle accidents

Car accidents

Truck accidents

Bicycle accidents

Pedestrian accidents

Dog bites

Medical malpractice

Food poisoning

Prescription drug reactions

The authors of this book have more than 50 years of combined legal experience. **Chuck Boyk** has been in private practice for 26 years and heads the Charles E. Boyk Law Offices, LLC. During his career, he has handled more than 4,000 injury and wrongful death cases to conclusion. Many of his cases have involved the injury or death of a motorcyclist, which has given him a special appreciation for how difficult these situations are for the people who have been injured and their families.

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 26 years. Mike, who has been named an Ohio Super Lawyer, has a unique background that benefits our clients. 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 clients' 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 helping adults and children who have been injured in accidents or by dog bites. He writes a column for the Toledo Blade called "Legal Briefs," in which he answers readers'

questions about a variety of legal issues. Dale graduated *cum laude* from the University of Toledo College of Law, where he was an associate member of Law Review. He serves on the Lucas County Public Defender Commission, the Lucas County Dog Warden Advisory Committee, and the Media Relations Board for the Toledo Bar Association.

Our attorneys' varied experience gives us a unique perspective on the motorcycle cases we handle and benefits our injured clients, as well as the families of those who have lost a loved one. Understanding the way insurance adjusters and defense attorneys will analyze the case gives us an added advantage we can pass on to our clients.

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.

CHAPTER 2

Every Rider is at Risk

The allure of hitting the open road on a motorcycle isn't just the stuff of Hollywood movies. Riding is fun and exciting. But anyone who has ridden knows it's undeniably dangerous. Bikers know there's a risk every time they roll out of their driveways, often from the actions of car and truck drivers.

In 2007, 190 people were killed, and 4,053 were injured in motorcycle accidents, according to the Ohio Department of Public Safety. Of the riders killed, 13.7 percent were between 21 and 25 years old, the highest percentage for any age group that year. The next highest groups were 36 to 40 year olds and 51 to 55 year olds, both tied at 12.1 percent.

Riders between the ages of 41 and 45 years old sustained the most injuries in 2007 at 13 percent. Riders 46 to 50 comprised 12.9 percent of those injured, with 21 to 25 year olds close behind at 12.6 percent.

The issue of helmet use is controversial in Ohio and throughout the country. Some riders feel they can hear and see better without a helmet, while others simply like letting their hair blow in the breeze. Many motorcyclists, though, don't feel as safe or secure without a helmet. It's an issue of personal preference.

Regardless of how you feel about the issue, statistics show it's safer to ride with a helmet. In 2007, 63 percent of the motorcyclists killed were not wearing a helmet, according to the Ohio Department of Public

Safety. In 2006, 70 percent of riders killed had no helmet. Of those who were injured, roughly 51 percent weren't wearing a helmet.

Statistics don't always tell the whole story and we don't offer them to alarm you, but they do give us all an idea of how dangerous it can be to ride a motorcycle. Many times, motorcyclists aren't responsible for the accidents in which they've been involved. In those situations, they need a lawyer to guide them through the often complicated personal injury process.

CHAPTER 3

Ten Tips Every Rider Should Know

This book contains a lot of information about motorcycle injury claims. We're not trying to overwhelm you – we just want to provide the educational material you'll need to understand this complicated process. We talk about accident-claim issues in extensive detail throughout the book, but here are some quick tips you should keep in mind if you don't have time to read the whole book right now.

1. Seek treatment immediately

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

2. 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 the injuries you've suffered in your motorcycle accident.

3. 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.

4. Don't provide a statement to the adjuster

Don't make any statements about your case until you consult with a lawyer.

5. 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.

6. Document everything

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

7. Honesty is the best policy

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

8. 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.

9. 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.

10. Hire a personal injury lawyer

Insurance companies employ professionals who deal with personal injury cases every day. Shouldn't you?

CHAPTER 4
Don't Wait!
Consult an Attorney Immediately

TOP 5 REASONS FOR HIRING A LAWYER NOW

1. Missing crucial deadlines can destroy your motorcycle injury case

In any accident case, the injured person needs to understand that there are important deadlines that cannot be missed. The most crucial deadline is the date by which a lawsuit must be filed, which is called the statute of limitations. If this deadline is missed, you will be forever barred from making a claim.

In a typical motorcycle accident case involving injuries or death, the statute of limitations is two years. If a lawsuit hasn't been filed within that two-year period, no claim can ever be made.

Injury claims involving children under 18 years of age are handled differently. Minors who have been injured have until two years past their 18th birthday to file a claim.

Please understand that delaying hiring a lawyer could destroy your motorcycle injury case.

2. Important evidence may be lost or destroyed

After an accident, injured riders must focus on making the best medical recovery possible. The treatment can be long and hard, often involving hospital stays and physical therapy. It's natural that your first thought isn't

hiring a lawyer.

But if you're reading this book because you've been injured in a motorcycle accident, you should consult a lawyer as soon as possible to avoid the loss of crucial evidence that may be critical to your case.

An attorney understands that the only way to prove a case is through the presentation of evidence. Preserving evidence before it gets lost or destroyed can make or break a case. While certain documents or items may not seem important to you, an attorney may realize that they must be gathered and saved, and sometimes may require immediate legal action.

In some cases, it's important to have your motorcycle inspected before it's repaired or destroyed. In other cases, the attorney may want to preserve evidence from the vehicle that struck you. And witness statements must be gathered while memories are still fresh.

In motorcycle cases, experienced attorneys know the critical importance in documenting the severity of the injuries. In our office, we have a sophisticated digital camera that we use to take photos of the wounds caused by an accident. In some circumstances, we hire professional photographers to take the images. Photos of injuries often are worth a 1,000 words of clinical descriptions in medical records.

Photographing the scene as soon as possible, hiring an accident reconstructionist, and retaining a private investigator to assist with evidence gathering may be critical to the success of your case. An experienced attorney will understand what evidence will be necessary to help

you receive fair and just compensation.

3. Signing medical authorization forms could damage your claim

Signing documents before consulting a lawyer could sink your motorcycle claim. When representatives of insurance companies ask you to sign certain documents shortly after you've been injured, alarm bells should be going off in your head.

Insurance companies often will ask you to sign authorization forms that allow them to access all of your medical records. They'll pass it off as something that's routine and necessary if you want to make a claim. What they don't tell you is that signing authorization forms allows them to dig through your personal medical history that has nothing to do with your motorcycle accident injuries. This not only violates your privacy but could damage your case.

An experienced injury attorney will stop the insurance company from having any contact with you. Your attorney will gather your medical records and present only the information that has to do with your case to the insurance adjuster. This is another example of why it's a mistake to wait before consulting a lawyer.

4. Settling claims before consulting an attorney can be a major mistake

Rushing into a settlement with an insurance company could cause serious financial harm to you and family. Insurance companies often try to contact people who

have been injured in an accident or the family members of those who have been killed within a few days of the accident in order to settle the claim quickly.

The money may look good at first when you're lying in a hospital bed unable to work. The problem is that once you settle your claim, it's settled forever. Even if you end up being more injured than you initially thought, you won't receive more compensation.

You also likely have no idea what a fair settlement would be. An experienced motorcycle accident attorney understands the many different factors that go into evaluating the value of your claim. Settling the claim too quickly could cause you and your family significant financial harm.

Do not be in a hurry to settle the case. Just inform the insurance adjuster that you're going to consult with an attorney to make sure your rights are protected. They won't like this, but just be firm and polite.

5. Motorcycle injury lawyers know how to protect your rights

Lawyers help level the playing field between you and insurance companies. As we wrote earlier, insurance adjusters handle claims for a living. Naturally they have a tremendous advantage over most people when negotiating a settlement. This is true even if you are very sophisticated in other areas of your life.

Injury cases are far more complicated than they often appear. The number of legal issues that arise even in seemingly straightforward cases can be tricky for even

for lawyers who specialize in representing injured people.

For example, we've handled numerous cases where it appears that there isn't enough insurance money to compensate the injured client. Because of our experience, we've been able to find coverage that allowed our client to receive compensation for their medical bills, lost wages, and pain and suffering. We've also been able to help families who have lost a loved one obtain financial stability.

Delaying in hiring a lawyer simply doesn't make sense when considering the complicated nature of most motorcycle injury claims.

The insurance industry, acting in concert with state and national chamber of commerce organizations, have worked their propaganda machines overtime to paint everyone who files a lawsuit as a money grubber. That's ridiculous and it's shameful. People shouldn't be made to feel guilty for pursuing legitimate claims, especially when a child was injured or killed as the result of negligent conduct. You have nothing to be ashamed of when you look out for the best interests of yourself and your family.

CHAPTER 5
Smart Moves to Help Your Case

TEN TIPS TO MAXIMIZE YOUR RECOVERY

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

You may have seen these topics addressed above in the Quick Tips section, but the section below discusses them in greater detail.

1. 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 motorcycle 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 motorcycle, 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 motorcycle accident 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 resolv-

ing 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, he'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 collapses. Don't play games when it comes to dealing with your injury case.

10. Hire a lawyer experienced in motorcycle and car accident 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.

CHAPTER 6

Do You Have a Case?

Not everyone who has been injured in a motorcycle accident 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.

CHAPTER 7

Important Motorcycle Safety Tips

We recognize that you may be reading this book because you've already been in an accident. But you may have picked it up because you're interested in motorcycles or the law – or both.

If you ride and you haven't been in a motorcycle accident, great. We want to keep it that way! We know that the drivers of cars and trucks often cause the accidents that injure motorcyclists.

Nonetheless, we hope that the safety tips offered here help prevent accidents. The tips are probably elementary for experienced riders, but reminders never hurt. All of the tips come verbatim from the Motorcycle Safety Foundation. For more information, visit the foundation's Web site at: www.msf-usa.org.

Be visible:

- Remember that motorists often have trouble seeing motorcycles and reacting in time.

- Make sure your headlight works and is on day and night.

- Use reflective strips or decals on your clothing and on your motorcycle.

- Be aware of the blind spots cars and trucks have.

- Flash your brake light when you are slowing down and before stopping.
- If a motorist doesn't see you, don't be afraid to use your horn.

Dress for safety:

- Wear a quality helmet and eye protection.
- Wear bright clothing and a light-colored helmet.
- Wear leather or other thick, protective clothing.
- Choose long sleeves and pants, over-the-ankle boots, and gloves.
- Remember – the only thing between you and the road is your protective gear.

Apply effective mental strategies:

- Constantly search the road for changing conditions. Use MSF's Search, Evaluate, Execute strategy (**SEESM**) to increase time and space safety margins.
- Give yourself space and time to respond to other motorists' actions.
- Give other motorists time and space to respond to you.

- Use lane positioning to be seen; ride in the part of a lane where you are most visible.
- Watch for turning vehicles.
- Signal your next move in advance.
- Avoid weaving between lanes.
- Pretend you're invisible, and ride extra defensively.
- Don't ride when you are tired or under the influence of alcohol or other drugs.
- Know and follow the rules of the road, and stick to the speed limit.

Know your bike and how to use it:

- Get formal training and take refresher courses.
- Call 800.446.9227 or visit www.msf-usa.org to locate the Motorcycle Safety Foundation hands-on *RiderCourse*SM nearest you.
- Practice. Develop your riding techniques before going into heavy traffic. Know how to handle your bike in conditions such as wet or sandy roads, high winds, and uneven surfaces.

CHAPTER 8

Do You Have the Proper Insurance Coverage?

No one likes to spend money on insurance. But any motorcyclist knows he's vulnerable on the road and that accidents can happen in a flash.

You can get away with buying the state-mandated minimum policy that provides \$12,500 per person and \$25,000 per accident to cover injuries caused by your actions. But that's a ridiculously low amount that won't be enough to cover you for serious injuries you cause to others, and it also leaves your personal assets exposed in the event of a lawsuit against you. We recommend buying a policy that provides at least \$100,000 per person, and \$300,000 per accident of liability coverage.

And, just as important, anyone who rides a motorcycle should have uninsured/underinsured motorist coverage. For a relatively small amount of money, you can add this coverage to your policy to protect you from drivers who either don't have insurance or don't have enough insurance in the event you're injured in an accident caused by someone else. We recommend buying a UM policy that provides for at least \$100,000 of coverage, but you should buy more if you can afford it. It's not that much more expensive to bump that coverage up to \$300,000, and it could be crucial for you and your family if you're hurt in an accident.

Purchasing an umbrella policy also makes sense for those who ride. Umbrella policies often provide \$1 million or more in coverage that kicks in if your other

policy limits are exhausted. We know of one motorcyclist who sustained life-altering injuries when a woefully underinsured driver struck him when he was taking his annual pleasure ride on the back roads of Ohio. Having the umbrella policy meant that he was able to be fairly compensated for injuries that will plague him for the rest of his life.

CHAPTER 9

Motorcycle Laws in Ohio

Ohio has a number of laws specifically related to motorcycle equipment and licensing requirements. We've included some of the most important motorcycle-related laws below:

Helmet and equipment laws

Helmets – All riders under 18, including passengers, must wear a helmet. For people 18 and older, helmets are required for those deemed a “novice” rider. Riders are considered a novice for one year after receiving a motorcycle operator’s endorsement or having received an endorsement from Ohio or a jurisdiction recognized by Ohio.

Eye protection – All riders and passengers, regardless of age or endorsement status, must wear safety glasses or some other eye protection like goggles or a face screen.

Lights – Motorcycles must have one and no more than two headlights. A tail light and brake light also are required.

Horn – Motorcycles must be equipped with a horn that can be heard at least 200 feet away.

Mirrors – At least one rearview mirror is required.

License requirements

Temporary permit – Temporary permits may be obtained at an Ohio Bureau of Motor Vehicles' licensing office. Applicants must take a written test and a vision test. The temporary permit is good for one year.

Motorcycle endorsement – To obtain a motorcycle endorsement or license, the rider must take an on-bike exam. The exam covers different skill exercises such as motorcycle control, judgment, and hazard response. Those who take the Motorcycle Ohio Basic Course can skip the on-bike exam if they present a completion card within 60 days of the course's conclusion.

Those under 18 must take the Motorcycle Ohio Basic Course before they are eligible to take the skills test. They also must complete the same Graduated Driver Licensing program required for driving a car.

Riders are considered a novice for one year after receiving a motorcycle operator's endorsement or having received an endorsement from Ohio or a jurisdiction recognized by Ohio, and must wear a helmet during this period.

CHAPTER 10
Let Your Lawyer Be Your Guide

**ATTORNEYS KNOW HOW TO NAVIGATE
THE LEGAL PROCESS**

In all but the most straightforward of motorcycle 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 motorcycle 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 a lawsuit 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 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.

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 advance to cover a lawyer's hourly billing. 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, those depositions have to be transcribed, medical records have to be ordered, expert 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. Sometimes the fee is higher in particularly complicated litigation that has to go to trial. 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 them 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 fees 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.

CHAPTER 11
Let Us Know if We Can Help

We hope this book serves as a helpful reference tool for understanding motorcycle accident cases. Most motorcycle accidents are serious, causing major injuries or death. Recovering from injuries or coping with a loved one's death may initially preoccupy you, but eventually you'll have to turn your attention toward your injury claim. We recommend hiring an attorney immediately so that you can get the best result possible. When picking an attorney for your case, select someone who handles a lot of motorcycle and automobile injury cases. Personal injury lawyers deal with complicated legal issues 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 also can order one of the other books we've written about car accidents, dog bites, child-injury accidents, workplace injuries, or wrongful death. 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.

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We have six offices in northwest Ohio to serve you.



The **Ohio** MOTORCYCLE ACCIDENT BOOK



Charles E. Boyk, Michael A. Bruno, and Dale R. Emch
Charles E. Boyk Law Offices, LLC.

Anyone who has ever ridden a motorcycle knows the exhilaration and freedom that comes from cruising down a wide-open country road on a warm, sunny day. And, anyone who has ever ridden a motorcycle knows the uneasy feeling that comes from being boxed in on a busy highway with a semi-truck on either side of you.

Those contrasting images represent some of the great and not so great experiences you can have on a bike. As wonderful as it can be, it's undeniably dangerous to ride, usually because the drivers of cars and trucks don't see you or are simply careless.

That's why we wrote this book. Motorcyclists are vulnerable out on the road and, unfortunately, accidents do happen. After an accident, the injured rider needs solid, practical advice about how to deal with insurance companies, medical providers, and the courts. Trying to navigate those unfamiliar roads can make an already difficult and painful time even more confusing and frustrating.

We hope our book serves as a guide for people who are struggling with injuries from a motorcycle accident or for the families who have lost a loved one as a result of someone else's negligence. We hope you've picked up this book simply for educational purposes and not because you or someone you love has been in an accident.

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**, or visit our website, www.CharlesBoyk-law.com or our blog, www.OhioMotorcycleAccidentBlog.com. We are 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.

