

ABOUT THE AUTHOR

North Carolina Attorney Kenneth L. Hardison has practiced law since 1982. Since that time he has represented thousands of injured clients in almost every type of injury and disability claim. Kenneth L. Hardison, known as the "people's lawyer," has spent the past 25 plus years building a highly respected practice concentrating in injury law.

He has used his experience to write this book in hopes of helping North Carolina injury victims avoid many of the "fatal mistakes" he has seen over his vast legal career.

This book is a tool to be used by consumers to warn them of pitfalls in the injury claim process, and educate them on the mistakes in pursuing their own injury case.

Seven Fatal Mistakes Victims of Accidents Make in North Carolina is written in plain English, without the complicated legal language, this book will be a valued aid for everyone forced to fight with the big insurance companies to get the benefits they deserve.

For more information about injury, workers' compensation and disability claims, please visit our web site at Hardison & Cochran at www.lawyernc.com or call our offices at 1-800-600-7969.

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SEVEN FATAL MISTAKES VICTIMS OF ACCIDENTS MAKE IN NORTH CAROLINA

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FROM THE AUTHOR

Thank you for buying or requesting this book. I believe you will find it helpful, and I would appreciate your comments.

If you have recently been injured in an accident, or if someone you care about has been injured, chances are you're worrying about what you should do next. You may also be feeling angry, frustrated, or just wondering if there is a simple way to handle your unfortunate situation.

You may be asking these questions: "Can I trust my insurance company to take care of me? How do I deal with the other insurance companies involved? Should I get a lawyer? Will I lose any benefits because I didn't see a doctor right after the accident? Will my own insurance company give me what I deserve for the damage to my car?"

If any of these questions have occurred to you, then keep reading. My hope is that this book will answer many of your questions, and that it will ease some of your stress and frustration.

This book is primarily about automobile collisions, but most of the information in the book also applies to injuries sustained in other ways – such as a "slip-and-fall" incident, an injury caused by a defective product, and many other types of accidents.

This book includes:

- Personal injury myths
- How insurance adjusters operate
- Why you don't need a lawyer in every accident case
- One thing you absolutely should do before hiring a law firm
- 10 questions to ask before hiring a lawyer
- The fee guarantee you should get before hiring a lawyer
- The Client's Bill of Rights

But first things first – who am I, and why have I written this book for you?

.....

My name is Kenneth L Hardison. I am an attorney who has been representing injured and disabled clients in North Carolina for over 25 years. Representing plaintiffs and consumers is all I have ever done as a lawyer. I have never worked for an insurance company or for a law firm that represents insurance companies. My allegiance and sympathy has always been to accident victims, and never to insurance companies or government agencies. I just want to help as many injured or disabled people as possible, and that's all I've ever wanted to do as a lawyer. If you're really interested, you can read more about me near the end of this book.

But the important thing is that today, more than ever, I am frustrated about how hard it is for people to get straight answers to their questions during the stressful time after an injury. If you should find yourself in such a situation, frankly, I hope you call me and hire my firm to represent you. But I wrote this book, and I'm giving it to North Carolina residents for free, because I want you to

have this valuable information whether you hire me, hire someone else, or hire no one at all.

Remember ...

When it comes to fighting the giant insurance companies, even if you don't have me AT your side, I'm still ON your side.

If you've been in an accident, there are some things that you absolutely must know. That's why I've created this book. Things are so complicated and such a hassle these days, that many people just give up, and don't try to fight for their rights. This book details some of the critical things you need to know, and even more importantly, details critical mistakes you MUST NOT MAKE, in order to get what you deserve under the law.

As a lawyer who works with injury cases day in and day out, I am becoming more and more concerned that most, hard working Americans are being taken advantage of by big, uncaring insurance companies, government agencies, and even by our legal system itself.

As a result, I have prepared this book by asking myself this question:

“If my best friend was in an accident, and I couldn't be there to help, what are the most important things I would want him to know?”

It is my genuine hope that this information will help you learn the important things that you should – and that you should NOT – do after being involved in an accident.

Before I begin, if you (or a family member or friend) has been hurt, please let me express my sincere

sympathy and best wishes for a complete recovery. Ideally, you are reading this book BEFORE you become injured in an accident. That way, you will be better prepared if and when that time should come.

An accident injury can be one of the most tragic and stressful events that can happen to a person. I know, because I have dealt with these situations every working day for more than 25 years. I have helped thousands and thousands of clients through this difficult time in their lives, and it never gets any easier – especially if someone has been severely hurt, disabled, or killed.

With recent changes in the injury laws, and with the way insurance companies are handling claims these days, I am even more worried that you may not get the help you really need. The last thing you need is to be taken advantage of during this difficult time in your life.

So, again, I want to thank you for requesting this book. I think that the information I give you here will help you in your quest to obtain fair compensation for your injury damages.

I have written this book so that consumers could have good, solid information before hiring an attorney or dealing with the insurance company. As I point out later, not every case needs a lawyer! I truly believe, however, that you should have this valuable information right now, for free, before you are pressured by an insurance adjuster to answer questions or to settle your case.

OK, are you still a little suspicious? Are you still wondering why I wrote this book, and why I'm giving it to North Carolina residents for free? Let me try to explain further.

I am just flat sick and tired of insurance companies taking advantage of people before they have a chance to talk to an attorney. You may not even need an attorney to represent you in your case, but you should be armed with this important information, right from the beginning of your claim. I wrote this book so that you can be informed, today. I am also sick and tired of the outrageous lawyer advertising where lawyers with a reputation for handling thousands of cases at a time make promises that can't be kept, or equate your injury to "CASH, CASH, CASH." I am also tired of lawyers who file frivolous lawsuits, because frivolous lawsuits hurt everyone by delaying real claims from getting to court.

Most attorneys require you to make an appointment, during which you would get some of the information that I am providing here. I believe that you should be able to have this information right now, and without any pressure. The hiring of an attorney to represent you is an extremely important step that should not be taken lightly, and should be done with no pressure on you.

Also, this method of talking to you saves me time. I've packed a ton of information into this book, and it saves me and my employees the hours of time that it would take each day just to talk to all of the new potential clients who contact us. I cannot and I will not accept every case, and each day we turn down personal injury cases that simply do not meet our case selection criteria. So, rather than cut you short on the phone, writing this book gives me a chance to tell you what you need to know so that you can make an informed decision about what steps to take with your case. Even if I do not accept your case, I still want you to be better educated about the personal injury process so that you don't fall victim to the big insurance companies.

I Am Not Allowed to Give Legal Advice in this Book!

Even though I may know many of the arguments the big insurance companies are going to make in your claim, I am not allowed to give legal advice in this book. I can offer suggestions and identify certain pitfalls and traps, but please do NOT take anything in this book to be legal advice unless you have agreed to hire me, and I have agreed, in writing, to accept your case.

Important Notice:

We do not want to interfere with any legal relationship you might have now. If you are already represented by a lawyer, this book may raise certain questions for you. Please discuss these questions with your current lawyer. Each law firm does things a little differently, and small differences don't mean that we are right, and your lawyer is wrong. If you are having some type of problems with your lawyer, please sit down with him or her and try to work things out. It is usually better to work out problems and stay with your original lawyer, than to switch lawyers part way through an injury claim. Our firm normally does not accept cases in which another attorney has been involved. Please do NOT ask us to take your case away from another lawyer.

Let's start at the beginning:

What is a personal injury case?

WHAT IS A PERSONAL INJURY CASE?

Lawyers say that they do “personal injury cases” or “accident cases” or “wrongful death cases,” but I’m not sure that everyone understands exactly what this means. A personal injury case, automobile accident case, or wrongful death case is a type of claim in which a person has been injured or killed due to someone else’s carelessness (negligence). If the only damage in your case is that your car got banged up, then you don’t have a personal injury case – but you may have a property damage case. Our firm does not handle property damage only cases, but later in this book I will tell you about a very valuable resource, available from my law firm and free for North Carolina residents, that will help you handle your own property damage claim, without even hiring a lawyer.

If both you and your car have suffered damage, then you have both a personal injury and a property damage claim. In those circumstances, either your insurance company or the other person’s insurance company will usually take care of your property damage claim. Your lawyer can give you some free guidance on the property damage portion of the claim if you are being represented on the injury portion of the claim.

If someone’s negligence causes the death of another, then this is called a “wrongful death” claim. The laws of each state differ significantly regarding what can be recovered in a wrongful death case, and who is entitled to a recovery.

You need an attorney who understands the specialized wrongful death laws. Please do NOT attempt to handle a wrongful death case without a lawyer!

In a typical personal injury case, once a claimant has completed medical treatment, negotiations begin with the insurance company in an effort to settle the claim for a fair amount of money. If no settlement agreement can be reached, a lawsuit must be filed by the injured person.

Once the lawsuit is filed, both sides engage in the legal process called discovery. Each party is allowed to investigate what the other side is going to say at trial. The defendant will be permitted access to your medical and work history, including your income records. You may have to give a deposition under oath. The defendant is also subject to discovery. The defendant will answer written and oral questions, under oath, about his or her background, and about the incident at issue. Then a trial is held, and a judge or a jury will determine both fault and damages.

You are at war – But it's a war that can be won.

A WAR THAT CAN BE WON

When you were injured, you entered a war zone. But we are in this war together. Big insurance companies have declared war on injured people and their attorneys. They have waged this war in the legislatures and in the media, and the hundreds of millions of dollars they have spent on propaganda has had a tremendously negative effect on juries and jury verdicts. This propaganda campaign has also resulted in bad laws being passed, in the name of “tort reform.” The success that the insurance companies have had in tainting the minds of jurors has emboldened them to frequently not make reasonable settlement offers until you prove to them that you are ready, willing, and able to go to trial.

What about Harmful Products, Dog Bites, and Slip and Fall Cases? Whenever you are hurt by anyone’s negligence, including that of a professional, a builder, a manufacturer, or a store owner, you have a personal injury claim. Products liability (injury by harmful product), medical malpractice (injury by a doctor, hospital, or other healthcare provider), and slip and fall (injury because someone did not take care of the floor or sidewalk) are all types of personal injury cases, and are treated somewhat the same as automobile collision cases. But there are a number of significant differences, and, especially for products liability cases or medical malpractice cases, you should not attempt to represent yourself in these matters.

PERSONAL INJURY MYTHS

- If you write the insurance company a letter, and you are reasonable, you will get a fair settlement proposal.
- When you are in an accident and the insurance company calls you to ask for a recorded statement, you have to give them a recorded statement or they won't settle with you.
- The insurance company for the person who hit you is obligated to pay your medical bills as they are incurred.
- If there has been an accident and it wasn't your fault, there must be some insurance company that will pay for your medical bills, lost wages, and injuries.
- If you go to court and just tell your story, the jury will feel sorry for you and award you adequate damages to compensate you for all your losses.
- North Carolina juries are generous. (NO!)

AUTOMOBILE INSURANCE DEFINITIONS

You need to have a basic understanding of the various types of automobile insurance coverage available before we get into the Fatal Mistakes. What follows is a simplified, plain-language description of the most common categories of auto insurance coverage and how they may benefit you.

Bodily Injury Liability

If another person is injured because of your carelessness or the carelessness of someone driving your car, this coverage typically requires your insurance company to pay the claim.

The company's obligation is limited, however, to the amount of coverage you purchased. For example, if your liability amounts are the North Carolina minimum of \$30,000 per person and \$60,000 per accident, your company will pay no more than \$30,000 to each injured person and no more than \$60,000 total for any one accident. You will be personally responsible for any damages above the amount of your insurance coverage. You may see shorthand references to liability insurance limits as 30/60, 50/100, or 100/300.

Property-Damage Liability

This is similar to bodily injury liability except that it covers damage to another person's property rather than physical injuries. The company's obligation to pay also is limited to the amount of coverage you buy. The minimum limit for

property damage coverage in North Carolina is \$25,000. So shorthand references to liability and property damage coverage combined may be written as 30/60/25. Of course, \$25,000 doesn't come close to repairing a badly damaged new vehicle these days, so we always recommend that our clients purchase additional coverage. It's surprisingly inexpensive to increase your liability coverage above the minimum required by law.

Comprehensive

This category of protection generally requires your insurance company to pay for damage to your car caused by something other than an auto accident (for example, fire, theft or vandalism). The company's obligation to you will be limited by the amount of any "deductible" you may have purchased. A \$100 deductible means that you pay the first \$100; the company pays the rest.

Collision

Your insurance company pays for damage to your car caused by an auto accident. Deductibles also are common with this coverage.

Medical Payments Coverage

Your insurance company will pay the reasonable medical expenses of anyone in your car who is injured in an accident. Under this coverage, it does not matter who was at fault in the collision. You and most members of your household need not be in a car for this coverage to apply.

For example, you also would be covered if struck by a car while you were a pedestrian. As with liability insurance, the company's obligation is limited to the amount of coverage you buy. Medical Payments coverage is available in North Carolina in amounts of \$500 and up to \$100,000. This coverage is not mandatory.

Underinsured Motorist

If a driver injures you or your car's occupants, and his or her liability insurance is insufficient to cover the full value of your claims for physical injuries, this coverage will pay your claims for physical injuries. It serves as a substitute for the bodily injury liability insurance that the other driver did not have. This coverage also is limited to the amount of insurance you buy. As with personal injury protection coverage, payment is not limited to automobile occupants.

Uninsured Motorist

If a driver injures you or your car's occupants, and has no liability insurance to cover your claims for physical injuries, this coverage will take care of your claims. Again, your company's obligation is limited to the amount of coverage you purchase. Like personal injury protection and underinsured motorist coverage, it is not limited to automobile occupants.

BAD THINGS THAT COULD HAPPEN IN THE INJURY CLAIMS PROCESS

- The insurance company could drag its feet in investigating the injury claim and accepting responsibility. (Typical)
- The person at fault may not report the accident to their insurance company.
- The person at fault may not have coverage for the damage that they caused you. If so, you may have to file an injury claim under your own auto insurance policy. If you do not have full coverage, you may have no way to make any recovery. This is why all auto owners should always add Uninsured and Under Insured Motorist (UM/UIM) protection coverage, as well as Personal Injury Protection (PIP) coverage, when they buy their auto insurance.
- Your vehicle could cost more to repair than it is worth, and you may have to obtain a new vehicle.
- You may have paid too much for your car, including the sales price and financing costs, and if your car is a total loss, you may become “upside down” in the value of the vehicle versus the loan amount due. In other words, you may end up with no car, but with an obligation to continue paying for it anyway. There is a type of insurance coverage, called Guaranteed Auto

Protection (GAP) insurance for situations like this.
This is good protection to get when you buy a new car.

- You may not own the car yet, and your bank or car dealer may repossess the title if the payments are not current.

Now, before I tell you the 7 Fatal Mistakes Accident Victims Make, you first need to know this:

HOW DO INSURANCE COMPANIES AND ADJUSTERS OPERATE?

After an accident, while you are still receiving treatment for your injuries, the party at fault in your accident has probably notified his or her insurance company. The insurance company's adjusters and investigators are experienced, and they recognize the importance of immediately investigating and "processing" accident sites.

The other driver's insurance company is under no legal obligation to inform you of your legal rights. Every insurance company employs experienced defense attorneys, who operate behind the scenes, and whose sole responsibility is to protect the financial interests of the big insurance company. Insurance companies are in business to make money, and the less they pay out on claims, the greater their profit margins.

Insurance company adjusters are trained to take advantage of the fact that claimants have little knowledge

or experience in determining the fair value of their claim. The adjuster from the other side's insurance company may be very pleasant, appear to be concerned, and even try to be your friend. He or she may be a wonderful person, coach the local soccer team, and belong to your own church or civic group. But always remember that his or her job is to protect the insurance company – to find a reason NOT to pay you. Or if they must pay, to make sure you receive as little money as the insurance company can possibly get away with in order to “make the matter go away.”

The adjuster will often try to get you to minimize the nature and extent of the pain or impact of any injury, get you to accept full or partial responsibility for the accident when it was really not your fault, or tell you how difficult it would be for you to win your case in court. These are insurance adjuster tricks that an attorney can help you avoid!

*So if you have been injured in an accident
what should you do next?*

Before I answer that question, let me suggest what you should NOT do. Don't let anyone push you, force you, threaten you to sign any document, or try to intimidate you into making a hasty decision. This is very common with insurance companies and you may really regret your decision later. Here's why:

The American Bar Association Journal recently published an article reporting that one big insurance company has started a new program for their claims adjusters. Under

this program, the adjusters are encouraged to do “whatever they can” to get to the victims before they hire lawyers. This includes monitoring police radios and visiting accident scenes!

MAKE SURE YOU READ THE FOLLOWING...

Let me ask you a question: Why do you think insurance companies are doing this? I’ll give you a hint – it’s NOT for YOUR benefit! The answer is very simple.

A study by the Insurance Research Council found that injured people using lawyers in personal injury claims received MORE money than those without lawyers.

And this is AFTER paying the lawyer’s fees! Do you think the insurance companies want you to hire a lawyer when they know they will end up having to pay you more money, as well as paying for your attorney? NO!

Please remember this – an insurance company increases profits by reducing the amount of money it pays out in claims. Just think about this:

How many insurance adjusters do you think have received promotions or raises after bragging to their supervisors about how MUCH money they paid to deserving claimants?

Each year, tens of thousands of people never take any action to claim the compensation that they rightly deserve. This isn’t because they don’t want that compensation. Of course they do! It’s just because they

don't know what to do – and as a result, they don't do anything at all. They simply take whatever money is offered, because they think that's all they can get.

Most folks don't get proper help, either because they get bad advice from insurance companies, or because they are afraid, intimidated, or confused. Don't let that happen to you. After suffering an accidental injury, doing nothing is one of the worst things you can do!

To help you figure out what to do and what not to do, here are seven “Fatal Mistakes” that I have seen accident victims make time after time. I believe that being aware of these fatal mistakes will help you make a big difference in the final results of your accidental injury claim. These are valuable secrets that the big insurance companies hoped you'd never get! There is quite a bit of information packed into the next few pages. You may have to read this book several times to give you as much “ammunition” as possible, in case you are ever caught in an injury “war” with a big insurance company.

FATAL MISTAKE 1

NOT TAKING IMMEDIATE ACTION AT THE ACCIDENT SCENE TO ENSURE YOUR RIGHTS ARE PRESERVED

- Immediately after an accident, shock and confusion can make anyone forget to use their common sense. But there are certain steps you absolutely must take, beginning the instant after the accident. If you miss that opportunity, you will never have a chance to completely correct your mistake. Remember, even though these comments may refer to automobile collisions, many also apply to other types of accidents. For instance, substitute “store manager” for “police,” or “broken ladder” for “vehicle.”
- If you have had an automobile collision, stop immediately, but do not block traffic. North Carolina law requires that you not leave the scene of an accident, even a minor one, without first stopping to see whether there are damages or injuries. If you cannot immediately move all vehicles out of traffic lanes, warn oncoming automobiles by setting out road flares, turning on hazard lights, or raising the hood or trunk of your vehicle and other vehicles. Assist anyone who may be injured, but be careful not to move seriously injured persons unless necessary to remove them from further danger. Call for an ambulance if obviously necessary, or if you feel immediate symptoms of injury. Keep calm, don't argue, don't accuse anyone, and don't admit fault. Things you say immediately after the

accident can be used against you later. So don't discuss the accident with the other driver, don't take the blame for it or accuse the other driver of causing the collision.

- Telephone the police and cooperate fully with the investigating officers. If you are not in an emergency situation, you can dial HP* rather than 911. Do not allow the other driver to talk you into not contacting the police. In many cities, police will not come to the scene of a minor collision. Let the police make this decision – you call them anyway. If a police officer does come to the scene, ask him or her to make a written accident report and give you the incident number of the report. Be sure to get the name and badge number of the investigating officer. Also, be sure you know which agency the officer is representing. He or she could be a city police officer, county sheriff's deputy, or state trooper. If a police report is made, it should be available for you to pick up a few days after the collision. Ask the officer where you can get the report. If you don't have a lawyer to do this for you, get a copy of the report yourself. Check the report very carefully to be sure all details are correct. Sometimes the investigating officer will correct an error in the report if the error is pointed out quickly. After some time passes though, the officer will not be able to remember the details, and will have to go by what is written on the report.
- If your injury occurred not in an auto collision, but at a place of business, insist that the manager talk with you and make a written incident report. If there is any

chance your injury may have been captured by a security camera, tell the manager to preserve that evidence. This could be absolutely essential to proving your case later.

- Make written notes of the names, addresses, phone numbers, and license plate numbers of all parties involved, including any witnesses to the accident. Remember that a picture is worth a thousand words. Fortunately, many people now carry cell phones that can take photos. If you don't have one of these, keep a cheap or disposable camera in your vehicle. At the accident scene, if you can do so safely, take photos of all vehicles from various angles. Photograph the street scene, including traffic control devices (stop signs, yield signs, or stop lights), skid marks, and any physical objects (such as guard rails or light poles) that were struck by a vehicle. Even photograph the other drivers, passengers, and witnesses, if possible. If you are injured and cannot take photos, ask someone to do it for you. If your cell phone or camera has video capability, a short video of the entire scene can be extremely helpful in showing a clear depiction of the relationship of vehicles and objects.
- Exchange information with the other parties. Always keep a pen and paper in your vehicle. Write down as much as possible from the other driver's insurance card and driver's license. Get all contact information from other parties and witnesses, including full names, home, work, and cell phone numbers, home and work

addresses, etc. Do not make any statements regarding injuries or fault, except to the police or the paramedics.

- If you feel threatened or unsafe at the accident scene, remain in your vehicle with the doors locked until the police arrive. Write down the license plate numbers, and the color, make, and model of the other vehicles. Take photographs if possible.

FATAL MISTAKE 2

NOT DOCUMENTING EVERYTHING THAT HAPPENS AFTER THE ACCIDENT OCCURS

- When your claim is presented to an insurance adjuster for settlement, or to a jury for verdict, here's a fact of life: It's not what actually happened, but only what you can prove happened. In other words, neither the insurance company nor the jury has any obligation to believe what you say. You're going to have to prove your facts and prove your damages. How? You prove your facts and damages by documenting everything you possibly can. We've already talked about documenting everything at the scene of the collision or accident. But the need for documentation only begins at that point. It doesn't end until your case is completed.
- It's amazing how quickly we forget the pain and suffering we have gone through. Written words help us remember. That's why we take a shopping list to the grocery store! One of the first things to do after an

injury is to go home and write out everything you can remember about the accident itself. You'll remember things after you get home that you forgot to write down or didn't have a chance to write down at the scene. Then you need to keep a detailed pain diary. If you can't write because of your injuries, dictate your thoughts to a family member or friend to write down for you. This simple secret becomes a powerful tool for a fair settlement. It is important to make your diary entries as frequently as possible. A summary at the end of each month will not be nearly as accurate as daily entries.

- Like it or not, dealing with insurance companies is like a giant paper shuffle. In our profession it's called "building the file." Documentation is the key to keeping an insurance company honest and on their toes. If you want to get reimbursed for an expense, you will first have to show proof of the expense. For example, if, because of your injuries, you have to hire someone to cut your grass or clean your house, you need receipts to prove you spent the money. It is amazing how many of these reimbursable expenses slip through the cracks, unless you make notes, keep receipts, and bring them to the adjuster's attention.
- Keep detailed notes of all conversations with insurance company representatives, and get names, phone numbers, and job titles of everyone you talk with. If you have a problem with someone from an insurance company, ask to speak with that person's supervisor.

- Document your doctor visits. I promise that you will not remember every date and time you saw a doctor or therapist. Keep a calendar, and mark each medical visit or other significant event. Keep a record of when you got crutches, when you got off crutches, when you stopped wearing a neck brace, etc. Get the correct addresses and phone numbers of all doctors or clinics you visit. Pick up business cards when you are in their offices. Save all your pill bottles, casts, braces, and any other similar items you receive from your doctors.
- Document your lost wages. The insurance company is not going to take your word for anything. If you want to recover any earnings you lost because of this accident, you're going to have to prove to the insurance company every penny you lost. The normal way to do this is with a statement from your employer, but the insurance company may want to also see a copy of one of your pay checks. If you are self employed, or paid on commission, it can be a real challenge to convince the insurance company of your lost income. The insurance company may want to see copies of your tax returns for before and after the injury.
- I said earlier that a picture is worth a thousand words. This is true when it comes to injuries also. Pictures can be the difference between an average settlement and a great settlement. The right photograph can be a very powerful tool in motivating the insurance company to make a fair settlement offer. Video taping is also a very effective tool. Video not only can show the complete picture of the accident scene, it can show the "loss of

range of motion” caused by an injury. It can dramatically show the important aspects of your case. The point is that in an accident claim you are trying to recreate the past. The more effectively you can do that, the better you can prove your case. So take pictures of your injuries, and make a photo record of your stay in the hospital. If your injuries created a serious scar, it is vital to get clear, closeup pictures to show the details of the scarring. Don’t forget to photograph your vehicle from every angle before getting it repaired. When in doubt, get it on film!

- If you bring an attorney into the process in the beginning, the law firm should be able to help with the necessary photographs. For instance, at Hardison & Cochran, one of our investigators can take photographs of your vehicle and of any cuts, bruises, or scars you have suffered. We will also develop any photos our clients take themselves. Digital photos are fine, and are actually easier to work with and to store than regular print photos

FATAL MISTAKE 3

NOT SEEING YOUR DOCTOR OR NOT COOPERATING COMPLETELY WITH YOUR DOCTORS

- Go to the doctor at the first sign of injury, or even before the first sign of injury. What do I mean by that? See your doctor immediately after the accident – even if you don't feel pain. After representing many thousands of injured clients, I can say with near certainty that you will feel worse the day after the injury than you do immediately after, and you probably will feel even worse the second and third days as well. Don't assume that just because you don't feel immediate pain, you have not been injured. I'm not a doctor, and I can't explain this in medical terms, but our bodies just don't exhibit the symptoms of soft tissue injuries immediately. If you break your arm, you'll know it right away! But if you sprain your neck or back, you may not really feel it for a couple of days. Then, by the time you can get in to see your doctor, you may be in excruciating pain. It's much better to go ahead and see the doctor right after your accident, and let your doctor start some preventive care, so that when your symptoms do appear, they may not be as severe as if you had waited.
- There's another reason to see a doctor immediately. After an accident, many people try and tough it out, even though they may be in great pain, and in need of medical care. Some people are even embarrassed to

ride in an ambulance! This will be used against you by the insurance company later. The adjuster will say, “Well, if you were really hurt in the accident, why didn’t you immediately go to see a doctor?” Also, an insurance adjuster may argue that the failure to see a doctor immediately indicates that an injury must have resulted from an unrelated event after the accident. The longer you wait for medical treatment, the more difficult it will be to positively connect the injuries to the accident.

- Along those same lines, we hear insurance adjusters all the time say that our client didn’t complain about some specific injury the first time he or she saw the doctor, so that injury must have happened later. It’s just human nature to tell the doctor about what hurts the worst, and not mention the little aches and pains. But six months later, what used to hurt the worst might be healed, and that little ache or pain might have developed into a serious problem. So at every doctor visit, from the first to the last, tell the doctor every single problem you have, no matter how insignificant it may seem to you. I always tell my clients to let the doctor or therapist know about EVERY pain or problem they have, and let the DOCTOR decide what’s important and what’s not. Don’t try to diagnose yourself – you may make your injury and your case worse.
- You need to make a commitment to your health and to your recovery by keeping your doctor appointments, even if it is time consuming to do so. There is almost never a good reason or excuse to miss a doctor’s

appointment. By missing a doctor's appointment, you are saying to the doctor, and to the insurance company, that you don't hurt and that your injury doesn't matter that much. Each time you go to the doctor and report that you are still having pain, your doctor makes an entry in the records. It is important for your doctor to have up-to-date information on your condition. Remember, you are going to make a recovery for the pain and suffering that you can PROVE. Not going to the doctor is a good way to "prove" that you are NOT hurting, and that you don't care. If you don't care, the doctor may not care. It is very important for you to work hard to get well, and to go to every one of your medical appointments.

- Be sure to give each of your doctors a detailed explanation of exactly how your accident occurred. Doctors may see hundreds of accident victims per year. Your medical records are a key piece of evidence in pursuing your personal injury claim. Therefore, you need to tell all doctors and other medical care providers of your accident. You need to tell the doctors if you lost consciousness or if your car's air bags deployed. If the doctor knows the physical accident details, he or she can better understand the nature of the injuries that resulted from the accident, and can make a better diagnosis of your problems.
- Be honest with the doctors about any previous injuries you have had. The doctor needs this information in order to better treat you for your current injuries.

Always be honest with your doctors. They are just trying to help you, and you need to cooperate and be truthful with them. Cooperate also by doing what your doctors tell you to do. As best you can, follow your doctor's instructions. And be sure the doctors know what you are doing outside the doctor's office. In other words, don't let the doctor think you're staying home and resting in bed if you're actually working. This could make a big difference in the treatment, and especially in the medication, that your doctor recommends for you.

FATAL MISTAKE 4

GIVING STATEMENTS, SIGNING PAPERS, OR ACCEPTING INSURANCE COMPANY ESTIMATES WITHOUT FIRST GETTING LEGAL ADVICE

- Do not give any statements, written or oral, to anyone concerning your accident or injuries without first getting your lawyer's approval.
- It is common practice for insurance adjusters to call injury claimants and attempt to record a statement before the victim has an opportunity to talk to an attorney. The adjuster might seem friendly and sympathetic. But remember the adjuster actually wants you to make damaging statements, so the insurance company can pay you less money. Often, the injury victim is still in shock, or even under the influence of medication, and may not be thinking clearly at that

time. THAT'S EXACTLY WHAT THE INSURANCE COMPANY WANTS! So if you want to fully protect all of your legal rights, under NO circumstances should you talk to the other side's insurance company without having an attorney with you, or at least on the telephone with you.

- Never give a Medical Authorization form to the other side's insurance company! This is the ONE PAPER that could hurt you the most. Why? Armed with a Medical Authorization, the insurance company will have access to every medical treatment you have ever had – related to this injury or not. This can harm your claim in many ways. Your lawyer can explain this further.
- Do not give recorded or written statements to your own insurance company until you are sure you completely understand your coverage. If you are making a claim for Personal Injury Protection benefits, or making an Uninsured or Underinsured motorist claim, your own insurance company may be trying to deny coverage or limit the amount of your recovery. Yes, this is shocking and unfair, but it happens every day! Remember you are not required to allow the insurance company to record your conversation. If you have doubts, please consult an attorney.
- Do not automatically accept the property damage estimate or appraisal of your losses given to you by the insurer. Insurance companies will often try to get you to accept their own estimator's or contractor's repair or replacement estimates, which might be a bit low. DO

NOT sign any releases or waivers of any kind until you obtain legal advice. A bad financial situation after a major loss may make it seem necessary for you to accept a premature and inadequate settlement from your insurer. But you may remember destroyed items after you have signed a release for payment for your personal property inventory or other claims. For these reasons, it is advisable to consult an attorney before signing a release or waiver. Be sure to read the fine print on any payment or release from the insurance company.

- Do not accept any check from any insurance company that says “final payment” unless you are ready to settle your entire claim. Be careful not to accept an insurance check for property damage if there is anything on the front or back of the check that indicates it is a final payment or a release of all claims. I have seen this many times. Sometimes it may be a deliberate attempt by the insurance company to trick you into releasing all your rights. Sometimes it is just a clerical error, but even that can complicate your claim for injuries later in the legal process.
- Do not ignore time limits set by your own insurance policy. Most policies require a signed proof of loss or the filing of a law suit within a certain time limit. Be sure you comply with this requirement unless you obtain a written waiver from your insurance company. All policies allow you only a certain amount of time from the date of loss in which to bring a legal action if your claim has not been adjusted fairly. If your claim has not been settled to your satisfaction by six months

after your loss, consult an attorney immediately. A failure to do so could result in the complete loss of your right to sue. If you are making a claim against any governmental entity, such as a city, county, or even the federal government, the deadlines can be much shorter – as short as thirty days from the date of the injury. If you have any reason to believe your claim may involve a government, you need to contact a lawyer as soon as possible after your accident or you may lose all your rights to make a recovery for your damages.

- Do not forget that you have a contract with your insurer. Your insurer has a legal obligation to provide the coverage it promised to you. Be insistent about enforcing that obligation.
- You do NOT have a contract with the other driver's insurance company, and in North Carolina, there is NO requirement that they treat you fairly. You must be extremely cautious in accepting any statements from the other driver's insurance company. The adjuster may or may not be telling you the truth. Understand that the insurance adjuster's job is to protect the insurance company and its own insured driver or property owner. The adjuster has NO duty to protect you. The adjuster's job is to pay as little as possible in order to get your signature on a release that forever prohibits any additional claims you may have.
- Therefore, you should not accept a check or sign a release from the at fault driver or his or her insurance company until after you have conferred with an

attorney. Typically, an attorney will encourage you to wait to accept a check until you have completed your medical treatment and have been released by your doctor, so you will know that you have received an amount that adequately covers your past and future medical bills and other damages. An insurance adjuster may push you to settle the claim for the lowest possible amount, and may discourage you from contacting an attorney. If so, you should ignore the adjuster's advice, and consult an attorney immediately, before accepting any payment, signing any release, or otherwise settling your claim. You have to make sure you are receiving fair compensation, and not jeopardizing your right to a full and fair recovery.

- Some injuries take time to develop. Many accident victims accept a fast settlement, only to find out later their injuries are worse than they thought. Then later, when they try to get more money, they can't, because they already agreed to a settlement. DO NOT make the mistake of settling your claim before knowing the full extent of your injuries.
- Do not take advice from anyone other than an experienced lawyer. Don't listen to your friend or neighbor about what you should or shouldn't do. No one has had a case just exactly like yours, so don't try to compare. What your neighbor did right in his case, may be completely the wrong thing for you to do in your own case.

FATAL MISTAKE 5

NOT HIRING A LAWYER, OR HIRING THE WRONG LAWYER

I mentioned this in passing several times in the previous section. While it seems that most people should know it is important to seek advice when they are injured, statistics show that many people don't do so. Here are four main reasons why people don't hire a lawyer immediately after an injury:

- 1.** They don't know if they really need a lawyer, so they are hesitant to talk to one.
- 2.** They don't know a lawyer personally, so they don't bother to look for one.
- 3.** They aren't sure if they can trust a lawyer, so they don't want to use one.
- 4.** They believe it when the insurance companies tell them that they will end up with less money if they hire an attorney. (By the way, that is absolutely NOT true.)

These reasons are not good ones. In spite of all the lawyer jokes you may have heard, there are many honest, hard working, and ethical lawyers who can help you deal with an insurance company claim. While it is true that a lawyer will usually get a portion of the money you collect from the insurance company, it is also true that a good

lawyer can dramatically increase your chances of getting a larger settlement. Remember the study that showed a lawyer will usually INCREASE the amount of money in your pocket!

- Why do you need an attorney in a serious injury claim? Immediately after being injured in an accident, you are thrown into an adversarial legal system. In other words, the insurance company representing the party at fault for the accident has in place a team of adjusters, investigators, and attorneys who are working against you, seeking to pay as little as possible to settle your claim.
- Many accident victims, already in distressed physical, mental, and financial circumstances, understandably choose to delay what they consider to be the hassles involved in retaining a personal injury attorney. Some may have had a bad experience with an attorney (in a divorce, for example), or they simply do not like or trust attorneys. These people may attempt to represent themselves.
- Some accident victims, in an attempt to avoid paying legal fees, try to represent themselves, and call an attorney only after they realize that they've gotten "in over their heads." Unfortunately, there are many mistakes (such as providing damaging statements to adjusters) that cannot be "undone" by even the most experienced personal injury attorney. Plus, if you wait too long to get legal help, it gets harder to find evidence

and witnesses. You also risk losing your claim because the deadline for filing a lawsuit has expired.

- The bottom line is . . . considering the legalities and complexities of the established system for compensating accident victims, hiring an attorney is usually necessary to “level the playing field,” and to ensure that you receive maximum compensation for your injuries.
- This general rule almost always applies in any accident that involves serious injuries. BUT, if you have been involved in an automobile collision involving property damage only, with NO INJURIES, you probably don’t even need a lawyer.
- To summarize – if you’ve been seriously injured, you definitely need a lawyer. If you haven’t been injured at all, you probably don’t need a lawyer. Now, what if you suffered a minor injury? That’s a gray area.
- If you didn’t contact a lawyer immediately, as we have recommended, time has passed, and you only had a couple of doctor visits and you maybe lost a few days from work, then you probably don’t need to hire a lawyer. But you certainly should at least contact a lawyer and get some free advice. Many law firms won’t even talk to people in this situation – as soon as they determine there’s no “good case” for them, they just want to get you off the phone and move on. Our law firm isn’t like that. If you call us with a problem or a question, even if we know we can’t represent you,

we'll still try to answer your questions or we'll refer you to another lawyer or to a government agency that can help you.

OK, now you've decided either to hire a lawyer or not. If you do want to hire a lawyer, how do you choose the best one for you? Hiring a lawyer is easy. Hiring the RIGHT lawyer takes a little extra work. You see, there is as much difference between individual lawyers as there is between doctors, accountants, or other professionals. Choose carefully!

Some law firms are personal injury "factories." They simply settle all their cases for much less than they might have, in order to clear the case as quickly as possible and make room for the next one. If they can't settle a case quickly, they refer it to another law firm to take the case to court.

Let me suggest that you should stay clear of a situation like this. You need a law firm that will handle your case from start to finish, will pay personal attention to you, will be available when you need them, and will return your phone calls promptly. There is a difference!

We think a lawyer should give a personal commitment to ALL of his or her clients. Just look at our Client's Bill of Rights near the end of this book. We commit to every client we have, that they will be treated fairly. Then we GUARANTEE to treat every single client with the respect, attention, and dignity that person deserves. I can't stress enough to you how important this is!

The best way to learn about a specific law firm is to ask your friends and neighbors about them. If someone you know has used that firm in the past and has been satisfied with them, that is a good recommendation. Another way to learn is to ask the lawyers in the firm to send you some free information about themselves, and then to meet with them and ask any questions you may have. I want clients to ask questions of me, and of the lawyers and employees who work at my firm, because I want the clients to be confident that they have chosen the best firm for them.

Here are ten questions you might consider asking a law firm before hiring them:

1. How much experience does your firm have in representing injured people?
2. Have you ever been sued for legal malpractice?
3. Are you covered by a legal malpractice insurance policy?
4. Have you ever been disciplined by the State Bar of NC?
5. Does your firm try lawsuits, or do you refer all your cases to other firms for trial?
6. Will you copy me with everything you do on my case?

7. What are the qualifications and experience of the people (both attorneys and non-attorneys) assigned to handle the day-to-day duties of my case at your office?

8. Who at your office (both attorneys and non-attorneys) will be communicating with the insurance company on my case?

9. If I am not happy with your firm the first 30 days after I hire you, can I take my case and owe you no fee?

10. Can you guarantee that your legal fee will not be more than the amount I receive after paying medical bills and case expenses?

These last two points are **very** important. I have heard many stories of lawyers who will settle a client's personal injury claim, and then when all the bookkeeping is done, the lawyer ends up with more money than the client! THIS IS SIMPLY NOT FAIR. My law firm **never** takes a fee that is more than the amount of money our client takes home, after all necessary medical bills and expenses are paid. DO NOT hire a lawyer unless he or she guarantees you that the attorney fee will NOT be more than the amount of money you take home. Otherwise, the lawyer may be tempted to settle a claim just so the lawyer can get a "full fee," regardless of how much the client receives. You need to be sure that your goals and the lawyer's goals are exactly the same.

FATAL MISTAKE 6

NOT BEING HONEST WITH YOUR LAWYER, OR FAILING TO COOPERATE WITH YOUR LAWYER

- Don't try to hide past accidents from your lawyer. Once you begin a case, the other side will be interested in knowing how many past accidents you have had. The reality is that they probably already know the answer, or at least have easy access to that information. All insurance companies subscribe to insurance databases that contain records of millions of accident claims, and often the only reason they ask you this question is to test your credibility. If you have been in other accidents, your lawyer can investigate this and make a determination as to whether this is a valid problem in your case. But if you do not tell your lawyer, and you try to misrepresent your accident history to the insurance company, then it is almost guaranteed that you'll lose your case.
- Don't try to hide past injuries from your lawyer. It should go without saying that you need to be up front and honest with your attorney about any injuries that occurred before or after this particular accident. Again, if you saw a doctor or other healthcare provider, then there is a record in existence that the insurance company will probably find. Your lawyer can deal with this if he or she knows about it. If you lie about it, and the insurance company finds out, then your case is probably going to be lost.

- Don't misrepresent your income. In many cases, a claimant will have lost income because of the accident. You may only be able to claim that lost income if your past tax returns are correct. You don't want to risk claiming a loss of income, only to have your past tax returns not back up your claim. Again, being honest with your attorney is essential, because he or she can deal with the problem if informed about it in advance.
- Don't misrepresent your activity level. Insurance companies routinely hire private investigators to conduct videotape surveillance. If you claim that you cannot run, climb, or lift, and you get caught on videotape, you're going to have problems with your claim. There is no good explanation that can overcome the eye of the camera.
- Don't change your address, telephone, or employment without notifying your attorney. Your lawyer must be able to locate you immediately if an important question or problem arises.
- Don't try to hide the truth from your lawyer about a past criminal history, or about drug or alcohol abuse. Once again, your lawyer can handle almost any problem if you tell your lawyer about the problem. If your lawyer is "ambushed" by the insurance company with such damaging information, your lawyer has no time to prepare a defense.

- Don't forget to tell your lawyer about every doctor you see. This is very important information for your lawyer, and if you don't tell the lawyer, you may miss out on recovering for those specific medical bills.
- Don't miss any meeting scheduled with your lawyer. Your lawyer's time is valuable, and there is a purpose for every meeting that is scheduled. Sometimes a meeting can be rescheduled, but other times a meeting is "now or never."
- Don't skip over any letter from your lawyer, and do call if there is something in it you don't understand. Sometimes a letter is just to tell you that your case is progressing normally, and the letter is frankly not too important. But other times, a letter will be sent to give you essential information or to tell you about an important deadline in your case.

FATAL MISTAKE 7

EXAGGERATING YOUR INJURIES OR NOT BEING COMPLETELY HONEST IN OTHER WAYS

- If you haven't worked on one side or the other of injury claims, you have no idea how incredibly much information the insurance company has about you. You are not going to get away with hiding anything, so don't even try. They will find out if you lie about one little thing, and then they won't believe anything else you say. This is true of juries also. One lie, even about a small matter, can kill your case – absolutely kill it. Have I made this simple point clear? From the instant you are injured until you have the final check in your hand, **ALWAYS TELL THE TRUTH.**
- Your insurance company and the other party's insurance company have access to any past injury claims you have made – auto, job, and other. They have access to any past criminal record you may have. They have databases that will tell them all about your marriages, divorces, past addresses, and many past employments. They may hire investigators to park outside your house and video your comings and goings. I have seen insurance company surveillance tapes of my clients taking out the trash, mowing the yard, washing the car, etc. The insurance companies always try to say my clients aren't really hurt because they can perform these simple activities. The insurance company investigator may follow you around town to see if you

are working when you say you're too injured to work.
Once more – ALWAYS TELL THE TRUTH.

- Do be honest and forthcoming with your own insurance company. Even if it may seem embarrassing, it is better if your insurer knows all the facts. Failing to be candid with your insurer might invalidate your policy or cause a denial of coverage. This can ruin any potential claim you may have under your own insurance policy, and can give your own insurance company an excuse not to defend you against any claim the other party might try to make against you.

CONCLUSION

This book has only hit some of the highlights of what you need to do to increase your own **NEGOTIATING POWER** with the big insurance companies. As you can see, it is an information game. One advantage you have during the beginning stages of your case is that you alone have access to the evidence. The more of it you can collect, the more of it you can use to your own advantage.

SO WHAT ELSE CAN WE DO TO HELP YOU?

In my law practice I've found that many people are **FRUSTRATED, SCARED, INTIMIDATED** and **UNSURE OF WHAT TO DO**. Sometimes people find it hard just to ask for help. Others may have already been intimidated by the big insurance companies or others they've been dealing with. Some may even believe that it is wrong to bring any claim for personal injuries at all.

I've found that once people talk with me or others at my law firm about their claims and about the legal process, they feel much better and more at ease with the whole system. After talking with us, they understand what's fair, and they feel good about doing the right thing. I think people also appreciate the opportunity to talk with us at no charge, and with no pressure.

**ONE THING YOU DON'T WANT IS TO BE
PRESSURED!**

I don't blame you in the least. I certainly don't like to be pressured either. That's why you must be careful, and take the time to make the best decisions possible. You can't make a good decision if you are being **PRESSURED!**

To be completely honest, one of the reasons I wrote this book is to see if my firm can help you. We would like to talk with you about your legal rights, and to answer your questions without any pressure – **FREE OF CHARGE!**

**SO HERE IS WHAT MY FIRM WOULD LIKE
TO OFFER YOU:**

A free consultation. You can meet with us at our office, which we prefer, and that you really should prefer (see my previous statements about this), or one of our investigators can come to your home if you just can't get to our office. We'll talk about your accident and related injuries, and we'll discuss your legal rights. It is our hope that during this discussion we can help you with the following:

- Find a way for you to get the medical help you need, and to get compensated for your injuries.
- Find out if the big insurance company you are up against is withholding benefits you are entitled to, or is pressuring you to make a quick settlement.
- See if you might be exposed to risks you may not even know exist, and that could spell disaster for you.
- And **LOTS MORE!**

Remember, you are under no obligation, and no one will pressure you. We are here to help you! That is our personal guarantee to you. Our goal is simply to create a situation where you feel comfortable talking with an expert about your legal options, and to answer any questions you may have. We understand that this can be a very difficult time. You may not be feeling well because of the pain from your injuries. Medication you're taking for that pain might make you a little "fuzzy." Stress can make things even worse.

If this book makes sense to you, then you've probably thought of a few more questions. Feel free to call us while this is still fresh in your mind. Waiting any longer may just cause more stress, or put you at greater risk. We would be happy to get you the information that could ease your mind. Remember, the law is filled with tricky time limitations and notice deadlines!

Why are we willing to do all this? We want you to see for yourself that there are lawyers who are honest, competent, and are willing to work hard for your best interests.

You may be wondering how we earn our money, and whether you will have to pay an hourly fee. Well, you should understand that we only get paid when we collect money for our clients.

We only get paid if you get paid. The more you get, the more we get. And the faster you get your money, the faster we get our fee. So we have every incentive to devote

ourselves to your case and fight for your right to receive the kind of compensation you deserve.

Please allow me to take just a few extra minutes to explain our CLIENT'S BILL OF RIGHTS. Lawyers will tell you that it is impossible to offer a guarantee in the legal business. WRONG! We say that law firm clients should settle for nothing less! Remember, your attorney works for you – not the other way around.

Client's Bill of Rights:

At Hardison & Cochran we believe we can promise our clients quality service with personal attention. We believe that as our personal injury client you are entitled to have the:

1. Right to talk to your attorney the same day you call.
2. Right to be updated regularly and in a timely manner as to the progress of your case.
3. Right to our respect.
4. Right to expect competence from our firm and all who work here.
5. Right to know the truth about your case.
6. Right to prompt attention from us.
7. Right to have your legal rights and options explained in plain English without legal mumbo jumbo.
8. Right to a fair written fee agreement with our firm.
9. Right to a fair fee for the work we do.
10. Right to make the ultimate decision on your case.

If you think this approach is fair, and you want to take advantage of the free consultation, with no obligation, just give us a call. We will make time for you to talk with us. Our firm is so committed to quality work and personal attention that we offer a no risk guarantee to potential new clients. If during the first 30 days after hiring our firm you are not completely satisfied with our services you may ask

for your file back and discharge us, no questions asked and you owe us no attorney fees.

Thanks again for buying or requesting this book. I hope it has been of some assistance to you. If you still have questions or need something further explained, call 1-800-600-7969 or go to www.lawyernc.com. There is no charge!

Remember, trying to do it yourself usually ends up causing more frustration for you, and less money in your pocket. If you call our office, we will arrange a conference to discuss your case at no charge. You can ask any questions, and we will discuss options that are available to you. This free consultation puts you under no obligation to use us as your attorney, and we will not pressure you in any way. Our job is to help you, and to counsel you, but you are the one who makes the decisions!

At Hardison & Cochran, we believe we have a duty as lawyers to educate members of the public about their rights and responsibilities. We try to do this through our Web sites and newsletters. I hope you will take a look at all we do, and I hope you find our work to be helpful to you.

Thank you again for taking the time to read this book.



We make it happen by putting you first.

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