
INJURY LAW FIRM™

ALERT

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No. 6

YOU HAVE JUST BEEN IN AN ACCIDENT – NOW WHAT? 13 MUST KNOW FACTS

This *Injury Law Firm Alert* does not constitute an attorney-client relationship but is meant for informational purposes only. Nor is this *Alert* meant to replace the legal advice of an attorney. Every case is different with specific circumstances that should be addressed individually. Should you have a legal question, speak to an attorney who is qualified to answer your specific question.

We all live thinking, “It will never happen to me,” or at least hoping it will never happen. But if you end up in an auto accident, you may face a whole new set of questions that you have never dealt with before. This **Injury Law Firm Alert** will give you some basic answers to questions you may face.

1) Should I give a recorded statement, and why do they want it?

Following an accident, it is typical for an insurance company to want a recorded statement from you. This automatically raises the question of whether

to give a recorded statement or not. If it is your own insurance company, there is a contractual duty to cooperate. Thus, you may be required to give your own insurance company a statement.

If the adverse party’s insurance company is asking, it is less clear. There is no legal duty to give them a statement. However, they may tell you that the only way that they will work with you is if you do give one.

Generally, my firm does not allow its clients give statements to the other side. This is something that we decide on a case by case basis. You may want to consult with an attorney before agreeing to give a recorded statement.

2) If I decide to give a recorded statement, what are the hazards?

If you decide to give a written statement, it is important that you be complete and honest. It is important that you fully set forth all of the injuries, physical problems, work limitations, etc., that you have and from which you are suffering.

It may take months or even years before your

In this issue...

- ▶ How to talk to the insurance company.
- ▶ When to consult with an attorney.
- ▶ Do not rush to settle.

matter is resolved or goes to trial. If you give a statement now, years from now the insurance company will pull it out and argue at the trial that you are complaining of symptoms or problems that you did not identify back when you gave your recorded statement.

I have seen it argued at trial that problems like back injuries, knee injuries, etc., could not have occurred in the auto accident because they were not mentioned in the recorded statement made immediately following the accident. Therefore, be sure to be complete.

3) Can I work with the other side's insurance company?

Insurance companies are large and sophisticated businesses. They have done extensive statistical analyses and focus group work. They understand that individuals who hire an attorney are likely to obtain 3½ times more money than those who do not hire an attorney. Further, through their polling and focus groups they understand that it is better to present an attitude of working with you instead of against you. So early in the process, you can expect a claims adjuster to express a willingness to work with you. It is important, however, that you have enough information (see No. 6 below) about your injury and the legal process so that you know whether or not you are getting a fair shake.

4) Should I release my medical records to the insurance adjuster?

This, again, is a difficult decision. If it is your own insurance company, you may be required to do so. However, if it is the other party's insurance company, you are not obligated to do so. In many instances it will work against you. Yet the other party's insurance company will probably not agree to pay until you agree to sign a medical release. Our firm has noticed that the medical releases tend to be over broad and in many instances are used against you. We usually oversee that process directly. But if you decide to sign a medical release to the other party's insurance company, be sure that you put some time limitations on it and reserve the right to terminate it when you choose.

5) How much money is my case worth?

There is no easy answer. After twenty years in this field, we have developed a pretty good sense of the value of cases based on the injuries. Generally the dollar value depends on the type and severity of the injury. Other factors can enter into this, for example: medical bills, length of treatment, loss of work, future medical bills, etc. Wyoming law typically allows recovery for: pain, suffering, and emotional distress; disability and/or disfigurement; loss of enjoyment of life; loss of earning and earning capacity; medical expenses; caretaking; and property damage. It is important that you or the person that you are working with have a full knowledge and documentation of all your damages.

6) Establish the scope of insurance coverage:

There are various types of insurance that cover various types of injuries. (This was covered in more detail in our **Injury Law Firm Alert**: "Three Types of Insurance that You Need to Know About"). In brief, you will want to establish the extent of *liability* insurance the other person has and whether s/he has an *umbrella* policy for excess coverage. You will also need to know the extent of *medical coverage* that you have under your own auto policy, and whether you have *uninsured* or *under-insured* motorist coverage.

7) Which insurance will cover the accident?

If the person who caused the auto accident has liability coverage, your settlement for physical injuries and for pain and suffering will ultimately come from that coverage. But this may take a long time. In the interim, if you have medical coverage with *your* auto policy, or if you have your own health insurance coverage, you may need to file claims under these policies to get the medical care that you need. If the other person did not have insurance or did not have enough insurance, you will need to establish whether you have *uninsured* or *under-insured* motorist coverage. If you have these, you will need to notify your own insurance company.

8) Get appropriate medical care:

Medical records are essential. The proof of your injuries is established by the medical records. Thus, if you have an injury, it is important that you completely and accurately describe to your doctor **all** your symptoms and problems.

I have had experience in trial when many months or years after the accident, the insurance company will claim that the person must not have had a certain injury because it was not documented in the medical records back in the early weeks and months following the accident. Your doctors want to help you get well, but they can only do that if you give them complete and accurate information. This means going to the doctor. This means fully documenting your injuries. This means following the doctor's orders. This means follow-up if the problem continues.

9) Are there some legal issues which require a lawyer?

There are some areas that need the direct attention of an attorney. You may need a lawyer to figure out how much time you have to file your lawsuit. Lawyers call this the statute of limitations. The statute of limitations limits the amount of time you have to settle your claim and/or utilize the judicial system. You may also need a lawyer to help you navigate the various types of insurance coverage that are available. You may need a lawyer to help with the reimbursement of medical expenses, i.e. paying back money owed to medical providers, health insurance, your own auto insurance, etc. These payments are known as *subrogation* or *medical lien* payments.

10) It takes time, but you will get past this:

A person who has been in an auto accident – particularly if it is a serious one – goes through a whole array of physical concerns and emotional experiences. In one instant you were minding your own business and functioning in your life and in the next instant your financial, physical, emotional, and familial well-being are impacted. So at the outset, know that this difficult time will pass. Your part of the process involves directing your energies toward your recovery, working with your doctors, and allowing

yourself to accept the fact that it may take weeks, months, and sometimes even years to get the matter behind you.

11) When dealing with the other party's insurance company, be aware of the old adage that "haste makes waste":

It has been my experience that my clients desire to get their matter closed and behind them. This is a healthy response. But it is not healthy if you settle before you know the full extent of your injuries. There is a good chance that the insurance company for the other party will encourage you to wrap this matter up and put it behind you. Remember, once you sign a release with an insurance company, there is no going back. Even if your doctors later discover that your injuries were more extensive than you had thought, you cannot go back. Once you settle with the insurance company, it is settled for good. Therefore, know your complete medical diagnosis and prognosis before you settle.

12) Conduct yourself professionally and honestly:

Whether at the scene of the accident, in interviews with insurance companies, or in the weeks and months following visits with your doctor and health care providers, it is important that you be honest. Conduct yourself in a professional way. You may not see the results in the short term, but in the long run, you will benefit.

13) Handle your car damage claim and your bodily injury (medical bills) claim differently:

It is not uncommon for insurance companies to settle out the damage on the vehicle, but keep the personal injury (medical treatment) open. Settling out the vehicle damage may be challenging. (Clients of our firm are invited to come in and view our 40-minute video which directly addresses point by point how to negotiate their vehicle damage). It is okay to settle out the car damage component before you settle out the personal injury side of the claim. Just make sure that when you sign a release, you are releasing **only** issues and matters that pertain to your vehicle.

ABOUT R. MICHAEL SHICKICH:



Michael Shickich is a fourth generation Wyoming resident. He has a regional law practice. In addition to being licensed in Wyoming, he is also licensed to practice in Colorado and New Mexico.

Experience and achievements include:

- Over 20 years experience as a trial lawyer.
- Direct knowledge of injury/insurance system: 8 years prior experience in insurance defense law.
- Highest rating of “Very High to Preeminent” by Martindale-Hubbell®.
- Member of the “Million Dollar Advocates Forum.”
- President of the Wyoming Trial Lawyers Association, 2003-2004.
- Dean of “The People’s Law School,” 2002-present.

Practice areas include:

- Automobile and Pedestrian Accidents
- Wrongful Death
- Injuries to Children
- Spinal and Bodily Injuries
- Burn Injuries
- Amputations
- Paralysis
- Oil Field Injuries and Explosions
- Brain and Head Injuries
- Nursing Home Negligence
- Asbestos and Toxic Exposure
- Trucking Accidents
- Airplane Crashes
- Railroad Injuries
- Whistle Blower Cases and Corporate Fraud, Theft and Medicaid Fraud
- Class Action Lawsuits
- Prescription Drug and Pharmaceutical Injuries
- Insurance Bad Faith and Wrongful Denial of Insurance Benefits

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FREE INJURY LAW FIRM ALERTS:

DO YOU HAVE OTHER AREAS OF INQUIRY? Feel free to contact us. We have these other information alerts:

- Five Critical Facts that Tell You When it is Time to Retain an Injury Attorney
- How Much Do You Really Know About the McDonald’s Coffee Case?
- Health Problems Linked to Ancure Abdominal Aortic Stents
- Health Problems Linked to Asbestos Exposure
- You Have Just Been in an Accident – Now What? (13 Must Know Facts)
- Eleven Facts You Need to Know about Auto Insurance

If you have a question, and we do not have an Alert, we still may have an answer.

Questions, Comments, Suggestions? I would be happy to hear from you, and you can reach me at:

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