

Questions and Answers About Your Case

William Muhr, LLP

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Questions And Answers About Your Case

Read and follow the information in this document to maximize the value of your claim.

The First Steps

Refrain from discussing the details of your accident or injuries with persons not entitled to that information. Any inquiries from the person responsible for your injuries or their representatives should be referred to your attorneys, William Muhr, LLP.

Do not make any statements to an insurance company. In almost every case, these statements are used against you and often significantly affect the value of your claim. If you have already made statements to any insurance company representative, or anyone else, tell us immediately of these statements, and their contents, and furnish us with a copy if you have one in your possession.

You the Client

1. What is the most important thing for me to do after my injury?

- a. Get prompt treatment for your injuries. Delay in seeing a doctor will significantly reduce the value of your claim.
- b. Follow the treatment recommendations of your medical providers. Failure to follow their treatment plan will significantly reduce the value of your claim. Large gaps in your treatment plans also tend to reduce the value of your claim.

2. How do I pay my medical bills?

Your medical bills may be paid by one of the following methods:

- a. Your own health insurance.
- b. Health insurance obtained by your spouse for your benefit or by your parents if you are under age and living with such parents.
- c. Medical payments insurance coverage from your own automobile policy if you were driving your automobile and were involved in an automobile collision.
- d. Medical payments insurance coverage from the person you were riding with if you were a passenger in an automobile that has automobile insurance coverage.
- e. Workers' compensation insurance if your injury occurred while you were working on the job.

- f. The liability insurance coverage for the person, persons or company who caused your injuries. Such insurance coverage will most likely be paid at the time of settlement rather than during the period that you incur such medical bills.
- g. If there is no insurance coverage, your bills will be paid at a later date when the case is settled.

3. Will the doctors, hospitals and other medical facilities wait for payment if I am unable to pay my bills as they are incurred?

Many doctors, hospitals, and other medical facilities will wait to be paid for their services until your case is finally resolved by way of settlement or verdict.

4. How does my lawyer make sure that the doctors and medical facilities will get paid?

Many doctors and medical facilities require that the patient/client sign a form (usually called a subrogation or lien form) which allows the attorney to withhold enough money to pay medical bills directly from the insurance settlement proceeds.

Your Lawyer

Shortly after the first interview with you, and after we have accepted the case, we will begin extensive investigation. We will promptly request medical records from all providers with whom you have already completed treatment. We will arrange for an investigator to obtain statements from any witnesses that may exist. The investigator will also be requested to obtain photographs and to assemble all of the information that is available as to how the accident occurred and who is responsible. We will obtain pictures of the accident scene, and of your injuries before bruises, lacerations, etc., have had a chance to disappear.

1. How can I help my lawyer with my case?

The following is a list of things that will also help your lawyer with your claim:

- a. Keep all appointments with your medical providers.
- b. Maintain a file and record of medical bills, mileage to and from your appointment with your medical providers, lost wages, and other expenses associated with the injury.
- c. If you cannot work, ask your medical provider to give you a note directing you to take off work. Without such as note, insurance companies generally will not pay for your lost wages.
- d. Call your attorney every 60 days for an update on your case.

- e. When you complete treatment with any medical provider, promptly advise us that your treatment with that provider is done. We will then promptly request all medical records from each of your physicians with whom you have completed treatment.

2. Do I have to sign authorizations to allow you to obtain my records?

Doctors, hospitals, employers, and other establishments will not release personal information about you without signed written authorizations. Therefore, your lawyer will ask you to sign such authorization forms which will allow him or her to retrieve important information about you.

3. How will my lawyer be paid?

Percentage fee agreements are available. Your attorney may be paid by retaining a percentage or portion of the final settlement or court award. The percentage will be discussed with you and will be the subject of what is called our contingent fee agreement.

The Insurance Companies

Our firm's coordination with the insurance industry to resolve your claim

After our firm notifies the responsible insurance carrier about the claim, a file is established on you and your case. An insurance claims adjuster is assigned to your file by a claims manager or claims supervisor. The supervisor may assign different adjusters to your case as it progresses.

The insurance claims adjuster responsible for your file will maintain contact with your lawyer.

After the initial investigation, the claims adjuster will request medical reports and any other reports dealing with your injuries. The adjuster will also review documents about your time lost from work. Most importantly, the insurance claims adjuster will want to receive accurate records of your medical bills, prescription bills, hospital bills, therapy bills, and any other actual expenses incurred as a result of your injury.

1. How does the insurance company put a value on my case?

This question is quite complicated. First, the claims supervisor or claims manager will provide that a certain amount be "set aside" as a potential value of your case. This figure is usually called "reserves." Such reserves are the outside value that the company has established on your claim.

Factors that influence the value of your claims include:

- a. The actual amount of all of your medical bills.
- b. How such medical bills were incurred; that is, from diagnostic tests, treatments, physical therapy, hospital stays, prescription medication, over-the-counter medication, chiropractic care, and other treatments.
- c. How much income and other employment benefits were lost as a result of your injury. This would include lost pay, sick leave used, vacation time used, and other losses resulting from your injury.
- d. The actual extent of your injury and how such injury affected your daily life. This would include limitations of household activities, sports and leisure activities, and social life.
- e. Whether or not any aspect of your injuries is permanent. This would also include permanent disfigurement such as scars, blemishes, and other disfiguring characteristics.
- f. Whether any of your injuries required hospitalization.
- g. Whether you had a previous injury in the same area of your body.
- h. The extent of liability on the part of the potential defendant.
- i. Whether there is any evidence that you were partly at fault for your own injuries.
- j. The status of the law as it relates to your case.
- k. The quality of your witnesses, including those who will testify about the incident, your injuries, and your medical treatment.
- l. Other factors such as pain, suffering, inconvenience and loss of consortium (how the injury affected your marital relationship).

Your attorney will seek compensation for your non-economic losses including pain and suffering, inconvenience, emotional distress, and loss of enjoyment of life.

Your attorney will seek compensation for your economic losses including your impairment of earning capacity over of your lifetime; actual past and future wage losses, past and future medical and rehabilitation expenses, past of future loss of probable home services, and lost time and mileage going to and from your appointments.

Your attorney will also seek compensation for your physical impairments and disfigurement and other damages, injuries, and losses.

The factors described above are just a few that must be taken into consideration in determining a settlement value.

2. Should I communicate with the insurance company for the person who caused my injuries?

You should not contact the insurance company once you have retained an attorney. If you contact the other person's insurance company, for any reason, you could ruin your entire case with one question or one statement.

The Person, Persons or Company Who Caused Your Injuries

Your lawyer has a great deal of experience in the area of personal injury law. After evaluating all of the appropriate factors, your lawyer will discuss the case with you to arrive at a possible settlement range.

Once you have agreed upon a general settlement range, your attorney will present a demand to the insurance company in the hope and expectation that the insurance company will pay a settlement within the range determined.

1. What steps will be taken to settle my case?

After all the investigation and research has been completed, your lawyer will actively keep in touch with the progress of your recovery.

After the insurance carrier's claims adjuster receives the letter of demand from your attorney, he or she will respond and negotiations between your lawyer and the insurance adjuster will take place.

2. How long does it take to complete settlement after the first letter of demand?

Every case is different and your lawyer will advise you about his opinion on the amount of time it will probably take to settle your case. There are many factors which affect the response time and the adjuster's final offer. They include:

- a. How many files the insurance adjuster is handling.
- b. How well documented the claim has been during the preparation period.
- c. Whether or not liability is clear on the part of the insurance company's client.
- d. Whether or not there is any comparative negligence on your part.
- e. Whether or not there are any other parties that may be responsible for your injuries.
- f. The internal claims process of the particular insurance company including the number of supervisors required to approve the adjuster's settlement offer.
- g. Other possible factors.

3. What happens after a settlement is reached?

After an agreement has been reached between the insurance company and you through your lawyer, it usually takes about two weeks to complete the settlement process, sign all the documents, receive the check, and determine the exact proceeds for each party.

The insurance company will require that you and your spouse, to sign a release. This is a document that settles your claim. The release will contain language stating that you are giving up your rights to sue the person, persons, or company who was responsible for your injuries. In exchange for giving up your claim, you will receive a certain sum of money when the insurance company receives the release.

Second, your lawyer will have to pay any medical bills that have not been paid and may be required to reimburse any insurance company that has expended money for medical bills such as your health insurance carrier, automobile insurance carrier or some other party who paid for your medical bills resulting from your injury.

Third, your lawyer will deduct attorneys' fees, actual out-of-pocket expenses, and other possible costs associated with the claim. After all deductions have been made for medical bills, possible liens, attorneys' fees, and costs, you will receive the balance in a check processed from your own attorney's office.

Litigation if the Case Is Not Settled

If the insurance company and your lawyer cannot agree upon the value of your case, it may be necessary to begin a lawsuit. This is also referred to as litigation. The lawsuit will usually be brought against the person, persons, or company who caused your injuries and not against the insurance company unless the case is an uninsured or underinsured motorist case.

If the case is not settled between you, your lawyer, and the insurance company and proceeds to litigation (lawsuit), then your attorney hired by the insurance company will defend and represent the tortfeasor, whether the tortfeasor is a person, persons or company. The insured will be required to participate in the litigation process and will be required to cooperate with the attorney assigned.

In some cases, your lawyer may suggest waiting a period of time before commencing the lawsuit in the hope that the insurance company will increase its evaluation of your claim. However, in cases where the parties are significantly far apart with respect to the value of a claim, litigation is usually necessary.

1. How does a lawsuit affect me?

If a lawsuit becomes necessary, your attorney will explain what you will have to do. Usually the process requires the following steps:

- a. After final investigation and preparation, your lawyer will file a complaint and jury demand in court.
- b. The Summons and Complaint are then served upon the person, persons, or company who caused your injuries and the responsible party is referred to as the defendant. You will be called the plaintiff.
- c. After the defendant is served with the complaint, the insurance company will hire a lawyer to defend the lawsuit and that lawyer will file what is known as an Answer to the Complaint. The Answer usually denies responsibility for the injuries, denies the extent of your injuries, and may seek to bring in other parties who might have been involved in the accident which caused your injuries.
- d. A process is started called discovery in which both sides seek information from each other. You will be involved in this process. The process includes some or all of the following:
 - Questions, called "interrogatories," which require written answers.
 - Oral testimony from you and other parties called "depositions." Such testimony takes place in front of the lawyers with a court reporter who takes down the questions and answers in order to prepare a written transcript.
 - "Requests for production of documents" in which the lawyers ask for medical reports, witness statements, medical bills, and other documents relating to the case. In most cases, your lawyer will have to send such documents to the other lawyer even if they have already been supplied to the insurance company.
 - "Requests for admissions" which is a process that requires the parties to narrow the issues by admitting certain facts that are not in dispute.
 - Pretrial procedures such as motions in court and other tactics that process the case to trial.
 - Preparation for trial including possible video depositions of your doctors, meeting with witnesses, writing briefs, and appearances of your attorney before the trial judge.
 - Finally, the jury trial and appeals.

2. Does a lawsuit require a substantial amount of work from my lawyer and, if so, will I be charged extra?

Litigation is a very time-consuming and difficult process. Your lawyer will have to prepare documents for court, take depositions, research the law, correspond with the defense attorney, correspond with you, correspond with your witnesses and doctors and

thoroughly prepare for trial. Your file will grow in size (sometimes large enough to fill a truck).

3. Will I have to answer interrogatories?

Interrogatories are questions sent to your lawyer by the lawyer for the defendant. You and your lawyer may be asked to answer a number of questions, usually 30 or more, with various subparts. Some of these answers will be prepared by you and some of them will be prepared by your lawyer.

You will usually be asked about your complete medical history, educational history, work history, and a number of questions about the incident and your injuries. It is important that you take time to prepare your answers carefully and accurately. If you leave something out that is important, or if there is a piece of information that is not accurate, such mistakes can be used against you at trial or at your deposition. It is important to prepare your answers within the time frame requested by your lawyer.

If you take the time to prepare your interrogatory answers accurately and carefully, you are more likely to have a successful case.

4. What are depositions?

Depositions take place in the office of one of the lawyers involved in the case. In your deposition, the attorney for the defendant will ask you questions about your injuries, the incident, and background information about you and your family. Your answers will be taken down word for word by a court reporter who will transcribe your testimony. The transcript of your testimony will be read by all attorneys, representatives of the insurance company, and portions may be used at the trial.

5. How do I prepare for a deposition?

- a. Dress appropriately as though you were going for a job interview.
- b. Read your interrogatory answers and any other documents your lawyer instructs you to read. Preparation will mean a better chance of a favorable settlement.
- c. Tell the truth even if you think the answer might hurt you. The worst possible answer is an answer which is less than truthful.
- d. Don't argue with the defense lawyer.
- e. Be polite.
- f. Listen carefully to the lawyer's questions. Do not jump ahead and answer the questions before the lawyer finishes.
- g. Do not agree just because the defense attorney asks you to agree. Some defense attorneys use the trick of making several statements to which you agree. Then,

they throw in a final statement which may not be true, but because you are so used to agreeing, you admit something that you should not. Therefore, it is important to listen to each statement or question carefully.

- h. Do not answer more than you have to. Simply answer the questions.
- i. Look the defense attorney in the eye as much as possible.
- j. Speak clearly.

6. Why are depositions important?

- a. The defense attorney will be sizing you up. If he or she is impressed with you and your testimony, settlement becomes more likely.
- b. The deposition is excellent preparation for trial. It gives you the opportunity to experience testifying.
- c. Your testimony, if it is false, can be used against you at trial.

The Jury Trial

1. When will the trial take place?

There are many factors that affect when your case will actually be reached for trial. Such factors include:

- a. The number of cases waiting for trial in your county or jurisdiction.
- b. The number of judges available to hear trials in your jurisdiction.
- c. Whether or not all discoveries, such as interrogatories and depositions, have been completed by both sides.
- d. The type of trial calendar set up in your jurisdiction. (For example--do criminal trials have priority? Is there a so-called "trailing docket"?)
- e. Whether or not the lawyers in the case have other trials pending in other jurisdictions.
- f. Other possible factors.

Your lawyer will be able to tell you approximately when your case will be reached for trial.

2. What happens in a jury trial?

- a. The judge will open the trial by calling the lawyers, clients and prospective jurors into the courtroom.
- b. A jury selection process called "voir dire" takes place. In some states, the lawyers can ask questions of prospective jurors before selecting the jury. This process allows the lawyers to determine potential bias or unfairness on the part of prospective jurors. In other states, the judge questions the prospective jurors.
- c. Jury selection takes place. The lawyers may exclude some of the jurors for various reasons.
- d. After the jury is selected, the lawyers will make opening statements. These opening statements are brief summaries of the case so that the jury will have a road map of the case. Opening statements are usually 30 minutes.
- e. After opening statements, your lawyer will present your case by calling you and other witnesses to the witness stand for direct examination. Such witnesses may include your doctor, employer, friends, family, and other witnesses who can testify about the incident or your injuries.
- f. After each witness has finished direct examination by your lawyer, the lawyer for the defendant will be entitled to cross-examination. That is, you and your witnesses may be asked questions by the other lawyer.
- g. After cross-examination, your lawyer may have a few additional questions. This process is called redirect examination.
- h. After your lawyer finishes presenting your case, the defense lawyer will call witnesses for the defense. Your lawyer will be entitled to cross-examine those witnesses.
- i. After both attorneys have finished all questioning and all presentation of evidence, the judge will allow closing arguments. In closing arguments the lawyers have the opportunity to summarize the case to the jury and ask for a verdict. Your lawyer will be allowed to go first, followed by the defense attorney. After the defense attorney finishes his or her closing argument, your lawyer may be offered a brief period of time for rebuttal.
- j. After closing arguments, the judge will instruct the jury on the law and how it should be applied to your case. This process usually takes an hour. The judge's instructions are the final words heard in the case before deliberation. The judge is not allowed to influence the jury one way or the other as to the potential result in the case.
- k. After the judge completes instructions, the jury is allowed to deliberate on your case in a closed room. This process usually takes several hours or days.

1. When the jury has finished their deliberations and reaches a verdict, the judge will call everyone back into the courtroom and the verdict will be announced. You will find out at that time whether or not you won your case and how much compensation for your losses, damages, and injuries has been awarded by the jury.

3. How can I be the best possible witness?

- a. Review your deposition transcript and interrogatory answers if your lawyer asks you to do so. It is important for your trial testimony to be consistent with your discovery.
- b. Do not mention insurance. If insurance or anything about it is injected into the case, the judge will probably declare a mistrial and you will have to wait for another trial date.
- c. Dress appropriately.
- d. Review your medical history so that you have a good idea about injuries you have had, doctors you have seen, hospitals which have treated you, etc.
- e. Do not exaggerate about how the incident happened or about your injuries. An exaggeration will almost always hurt you and never help.
- f. Be courteous to everyone including the defense attorney and court personnel. Jurors are impressed by polite people. Call the judge "Your Honor," show respect to courtroom personnel, and call the defense attorney "Sir" or "Ma'am" from time to time.
- g. Never lose your temper. Defense attorneys know one way to win a case---get the witness to lose his or her temper. If you feel badgered by the attorney, react courteously. Jurors are impressed by people who can remain calm under cross-examination.
- h. Listen carefully to each question and take your time to answer.
- i. Look at the jurors when you testify just as if you were talking to your best friend or closest relative.
- j. Speak clearly and answer with "Yes," "No, " etc. and not with words like "Ya," "Ahah," "Um," etc.
- k. Tell the truth.

After the Trial

When we win, how long does it take to finalize my case?

It usually takes three weeks to finalize the results. If the defense attorney does not appeal the verdict, the lawyers will work out the final figures with respect to the verdict, interest, court costs, deductions, and attorneys' fees.

Conclusion

Your personal injury case is very important to you. Your lawyer knows this. In today's society, insurance companies have a lot of power, money and influence. Place your faith, confidence, and trust in your lawyer and yourself and you will obtain justice.

Thank you so very much for giving William Muhr, LLP this opportunity to serve you.